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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1499

RIN 0551–AA89

Food for Progress Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The Commodity Credit Corporation (CCC) revises the regulations governing the award of agricultural commodities to recipients under the Food for Progress Program. This revision is necessary to clarify requirements for applicants for, and recipients of, awards under the Food for Progress Program and to inform interested parties that the OMB guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as supplemented by USDA regulations, applies to awards under the Food for Progress Program other than awards to foreign public entities. The revised regulations will enable applicants and recipients to better understand program requirements and the Foreign Agricultural Service (FAS), on behalf of CCC, to more effectively implement the Food for Progress Program.

DATES: This rule is effective September 12, 2016. Written comments must be received by CCC or carry a postmark or equivalent no later than October 12, 2016.

ADDRESSES: Submit comments to Director, Food Assistance Division, Office of Capacity Building and Development, Foreign Agricultural Service, 1400 Independence Ave. SW., STOP 1034, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Benjamin Muskovitz, Director, Food Assistance Division, Office of Capacity Building and Development, Foreign Agricultural Service, 1400 Independence Ave. SW., STOP 1034, Washington, DC 20250. Telephone: (202) 720–4221; Fax: (202) 690–0251; Email: *FAD_Contact@fas.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Food for Progress Program provides for the donation of U.S. agricultural commodities to developing countries and emerging democracies committed to introducing and expanding free enterprise in the agricultural sector. The commodities are generally sold on the local market and the proceeds are used to support agricultural development activities. The program has two principal objectives: To improve agricultural productivity and expand trade in agricultural products. The Food for Progress Program is authorized in section 1110 of the Food for Progress Act of 1985 (7 U.S.C. 1736o).

FAS implements the Food for Progress Program on behalf of CCC. FAS uses the regulations in 7 CFR part 1499, Food for Progress Program, in the administration of the Food for Progress. The previous version of the regulations was published as a final rule on March 26, 2009 (74 FR 13062).

On December 26, 2013, the Office of Management and Budget (OMB) issued guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200 (78 FR 78608). In 2 CFR 400.1, the United States Department of Agriculture (USDA) adopted OMB's guidance in subparts A through F of 2 CFR part 200, as supplemented by 2 CFR part 400, as USDA policies and procedures for uniform administrative requirements, cost principles, and audit requirements for Federal awards (79 FR 75982, December 19, 2014).

Revision of Regulations

FAS, on behalf of CCC, is revising the Food for Progress Program regulations in 7 CFR part 1499 through this final rule. Many of the changes to the regulations are technical in nature and intended to improve the efficiency and effectiveness of the Food for Progress Program. Some of the detail that was previously included in the program regulations will now be included in the applicable notice of funding opportunity.

The more significant changes to 7 CFR part 1499 include:

(1) Updating 7 CFR part 1499 to make it clear that the guidance in 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1499, applies to awards under the Food for Progress Program other than awards to foreign public entities. Applicants for, and recipients of, awards under the Food for Progress Program must consult all three parts to be informed of all regulatory requirements. Because 7 CFR part 1499 deals specifically with the Food for Progress Program, the provisions of 7 CFR part 1499 will apply if they differ from the provisions of 2 CFR part 200 or part 400.

(2) Clarifying the types of entities eligible for awards under the Food for Progress Program and the applicability of the regulations in 7 CFR part 1499 to each type of eligible entity (7 CFR 1499.1(d)–(g) and 1499.3(a)).

In accordance with 7 U.S.C. 1736o(b)(5), assistance under the Food for Progress Program may be provided to governments of emerging agricultural countries, intergovernmental organizations, private voluntary organizations, nonprofit agricultural organizations or cooperatives, nongovernmental organizations, and any other private entities. However, the regulations do not apply to all of these entities. The guidance in 2 CFR part 200 does not generally apply to for-profit entities, foreign public entities, or foreign organizations. According to 2 CFR 200.101(c), Federal awarding agencies may apply subparts A through E of 2 CFR part 200 to for-profit entities, foreign public entities, or foreign organizations, except where the Federal awarding agency determines that the application of these subparts would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government.

CCC has determined not to apply 2 CFR parts 200 and 400 and 7 CFR part 1499 to foreign public entities. Therefore, they do not apply to intergovernmental organizations (such as the World Food Program) or foreign governments, because these entities are included within the definition of a foreign public entity in 2 CFR 200.46.

CCC has determined to apply subparts A through E of 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1499, to for-profit entities and foreign organizations. Accordingly, they apply to applicants for, and recipients of, awards under the Food for Progress Program that are private voluntary organizations, including those that are foreign organizations; nonprofit agricultural organizations or cooperatives, including those that are foreign organizations; nongovernmental organizations, including those that are for-profit entities or foreign organizations; and other private entities, including those that are for-profit entities or foreign organizations.

CCC has determined to apply subparts A through E of 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1499, to all subawards to all subrecipients under this part, except where the subrecipient is a foreign public entity or where CCC determines that the application of these provisions to a subrecipient that is a foreign organization would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government or would not be in the best interest of the United States.

Subpart F of 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1499, applies only to awards by CCC to recipients that are private voluntary organizations, agricultural organizations or cooperatives, nongovernmental organizations, or other private entities, but that are not for-profit entities or foreign organizations. Subpart F of 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1499, applies to subawards to subrecipients, except where the subrecipient is a for-profit entity, foreign public entity, or foreign organization. In 7 CFR part 1499, CCC sets forth other audit requirements that apply to recipients and subrecipients that are for-profit entities or foreign organizations (7 CFR 1499.18).

(3) Adding and updating definitions of terms used in the regulations and removing definitions of terms that are no longer needed (7 CFR 1499.2).

(4) Including a requirement for an applicant to include in its application the amount of funding that will be provided to each proposed subrecipient under the agreement (7 CFR 1499.4(b)(4)(iii)).

(5) Adding new and modifying existing provisions relating to cash advances and reimbursements for expenses (7 CFR 1499.6(f)).

(6) Adding new and modifying existing labeling and notification requirements applicable to the packaging, identification, source, funding, and use of the donated commodities, while allowing for the waiver of these labeling and notification requirements in exceptional circumstances (7 CFR 1499.8(d)–(h)).

(7) Updating and clarifying language requiring recipients to report on the loss of or damage to donated commodities and pursue claims in the event of loss or damage (7 CFR 1499.9 and 1499.10).

(8) Incorporating new performance monitoring and evaluation requirements (7 CFR 1499.12).

(9) Updating reporting requirements (7 CFR 1499.13).

(10) Adding a section setting forth audit requirements for recipients and subrecipients (7 CFR 1499.18). Although the audit requirements in subpart F of 2 CFR part 200 do not apply to recipients or subrecipients that are for-profit entities or foreign organizations, CCC has determined to require such recipients and subrecipients to obtain an audit, provided that they expend, during the fiscal year, a total of at least the audit requirement threshold in 2 CFR 200.501 in Federal awards. The regulations lay out two options for satisfying this audit requirement.

Notice and Comment

This rule is being issued as a final rule without prior notice and opportunity for comment. The Administrative Procedure Act exempts rules "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts" from the statutory requirement for prior notice and opportunity for comment (5 U.S.C. 553(a)(2)). Accordingly, this rule may be made effective less than 30 days after publication in the **Federal Register**. However, members of the public may participate in this rulemaking by submitting written comments, data, or views. CCC will consider the comments received and may conduct additional rulemaking based on the comments. Written comments must be received by CCC or carry a postmark or equivalent no later than October 12, 2016.

Catalog of Federal Domestic Assistance

The program covered by this regulation is listed in the Catalog of Federal Domestic Assistance (CFDA) under the following FAS CFDA number: 10.606, Food for Progress.

E-Government Act Compliance

CCC is committed to complying with the E-Government Act of 2002 (44 U.S.C. chapter 36), to promote the use of the Internet and other information technologies to provide increased opportunities for citizens' access to Government information and services, and for other purposes.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866, "Regulatory Planning and Review." It has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, was not reviewed by OMB.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, "Civil Justice Reform." This rule does not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule will not be retroactive.

Executive Order 12372

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with officials of State and local governments that would be directly affected by the proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for the State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This rule will not directly affect State or local officials and, for this reason, it is excluded from the scope of Executive Order 12372.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare a regulatory flexibility analysis of any rule that is subject to notice and comment rulemaking under the Administrative Procedure Act (APA) or any other law, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act does not apply to this rule because CCC is not required by the APA or any other law to publish a notice of proposed rulemaking with respect to the subject matter of the rule.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, "Federalism." This rule will not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. This rule does not impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States was not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. CCC does not expect this rule to have any effect on Indian tribes.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because it does not impose any enforceable duty or contain any unfunded mandate as described under the UMRA.

List of Subjects in 7 CFR Part 1499

Agricultural commodities, Cooperative agreements, Exports, Food assistance programs, Foreign aid, Grant programs—agriculture, Technical assistance.

■ For the reasons stated in the preamble, the Commodity Credit Corporation revises 7 CFR part 1499 to read as follows:

PART 1499—FOOD FOR PROGRESS PROGRAM

Sec.

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Authority: 7 U.S.C. 1736o; and 15 U.S.C. 714b and 714c.

§ 1499.1 Purpose and applicability.

(a) This part sets forth the general terms and conditions governing the award of donated commodities and funds by the Commodity Credit Corporation (CCC) to recipients under the Food for Progress (FFPr) Program. Under the FFPr Program, recipients use the donated commodities, proceeds from any sale of such commodities, CCC-provided funds, and program income to implement a project in a foreign country pursuant to an agreement with CCC. The Foreign Agricultural Service (FAS) of the United States Department of Agriculture (USDA) administers the FFPr Program on behalf of CCC.

(b)(1) The Office of Management and Budget (OMB) issued guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200. In 2 CFR 400.1, USDA adopted OMB's guidance in subparts A through F of 2 CFR part 200, as supplemented by 2 CFR part 400, as USDA policies and procedures for uniform administrative requirements, cost principles, and audit requirements for Federal awards.

(2) The OMB guidance at 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to the FFPr Program, except as provided in paragraphs (e), (f) and (g) of this section.

(c) Except as otherwise provided in this part, other regulations that are generally applicable to grants and cooperative agreements of USDA, including the applicable regulations set forth in 2 CFR chapters I, II, and IV, also apply to the FFPr Program. The provisions of the CCC Charter Act (15 U.S.C. 714 *et seq.*) and any other statutory provisions that are generally applicable to CCC apply to the FFPr Program.

(d) In accordance with 7 U.S.C. 1736o(b)(5), assistance under the FFPr Program may be provided to governments of emerging agricultural countries, intergovernmental organizations, private voluntary organizations, nonprofit agricultural organizations or cooperatives, nongovernmental organizations, and any other private entities.

(e) The OMB guidance at 2 CFR part 200, and the provisions of 2 CFR part 400 and of this part, do not apply to an award by CCC under the FFPr Program to a recipient that is a foreign public entity, as defined in 2 CFR 200.46, and, therefore, they do not apply to a foreign government or an intergovernmental organization.

(f)(1) The OMB guidance at subparts A through E of 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to all awards by CCC under the FFPr Program to all recipients that are private voluntary organizations, including a private voluntary organization that is a foreign organization, as defined in 2 CFR 200.47; nonprofit agricultural organizations or cooperatives, including a nonprofit agricultural organization or cooperative that is a foreign organization; nongovernmental organizations, including a nongovernmental organization that is a for-profit entity or a foreign organization; or other private entities, including a private entity that is a for-profit entity or a foreign organization.

(2) The OMB guidance at subparts A through E of 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to all subawards to all subrecipients under this part, except in cases:

(i) Where the subrecipient is a foreign public entity; or

(ii) Where CCC determines that the application of these provisions to a subaward to a subrecipient that is a foreign organization would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government or would not be in the best interest of the United States.

(g)(1) The OMB guidance at subpart F of 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies only to awards by CCC to recipients that are private voluntary organizations, agricultural organizations or cooperatives, nongovernmental organizations, or other private entities, but that are not for-profit entities or foreign organizations.

(2) The OMB guidance at subpart F of 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to subawards to subrecipients under this part, except where the subrecipient is a for-profit entity, foreign public entity, or foreign institution.

(3) Audit requirements for recipients and subrecipients that are for-profit entities or foreign organizations are set forth in § 1499.18.

§ 1499.2 Definitions.

These are definitions for terms used in this part. The definitions in 2 CFR part 200, as supplemented in 2 CFR part 400, are also applicable to this part, with the exception that, if a term that is defined in this section is defined differently in 2 CFR part 200 or part 400, the definition in this section will apply to such term as used in this part.

Activity means a discrete undertaking within a project to be carried out by a recipient, directly or through a subrecipient, that is specified in an agreement and is intended to fulfill a specific objective of the agreement.

Agreement means a legally binding grant or cooperative agreement entered into between CCC and a recipient to implement a project under the FFPr Program.

CCC means the Commodity Credit Corporation, an agency and instrumentality of the United States within USDA, and includes any official of the United States delegated the responsibility to act on behalf of CCC.

CCC-provided funds means U.S. dollars provided under an agreement to a recipient, or through a subagreement to a subrecipient, for expenses authorized in the agreement, such as expenses for the internal transportation, storage and handling of the donated commodities; expenses involved in the administration, monitoring, and evaluation of the activities under the agreement; and technical assistance related to the monetization of the donated commodities.

Commodities mean agricultural commodities, or products of agricultural commodities, that are produced in the United States.

Cooperative means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

Cost sharing or matching means the portion of project expenses, or necessary goods and services provided to carry out a project, not paid or acquired with Federal funds. The term may include cash or in-kind contributions provided by recipients, subrecipients, foreign public entities, foreign organizations, or private donors.

Disburse means to make a payment to liquidate an obligation.

Donated commodities means the commodities donated by CCC to a recipient under an agreement. The term may include donated commodities that are used to produce a further processed product for use under the agreement.

FAS means the Foreign Agricultural Service of the United States Department of Agriculture.

FFPr Program means the Food for Progress Program.

Nongovernmental organization means an organization that works at the local level to solve development problems in a foreign country in which the organization is located, except that the term does not include an organization that is primarily an agency or instrumentality of the government of the foreign country.

Private voluntary organization means a not-for-profit, nongovernmental organization (in the case of a United States organization, an organization that is exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1986) that receives funds from private sources, voluntary contributions of money, staff time, or in-kind support from the public, and that is engaged in or is planning to engage in voluntary, charitable, or development assistance activities (other than religious activities).

Program income means interest earned on proceeds from the sale of donated commodities, as well as funds received by a recipient or subrecipient as a direct result of carrying out an approved activity under an agreement. The term includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under a Federal award, the sale of items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Program income does not include proceeds from the sale of donated commodities; CCC-provided funds or interest earned on such funds; or funds provided for cost sharing or matching contributions, refunds or rebates, credits, discounts, or interest earned on any of them.

Project means the totality of the activities to be carried out by a recipient, directly or through a subrecipient, to fulfill the objectives of an agreement.

Recipient means an entity that enters into an agreement with CCC and receives donated commodities and CCC-provided funds to carry out activities under the agreement. The term recipient does not include a subrecipient.

Sale proceeds means funds received by a recipient from the sale of donated commodities.

Subrecipient means an entity that enters into a subagreement with a recipient for the purpose of implementing in the target country activities described in an agreement. The term does not include an individual that is a beneficiary under the agreement.

Target country means the foreign country in which activities are implemented under an agreement.

USDA means the United States Department of Agriculture.

Voluntary committed cost sharing or matching contributions means cost sharing or matching contributions specifically pledged on a voluntary basis by an applicant or recipient, which become binding as part of an agreement. Voluntary committed cost sharing or matching contributions may be provided in the form of cash or in-kind contributions.

§ 1499.3 Eligibility and conflicts of interest.

(a) A private voluntary organization, a nonprofit agricultural organization or cooperative, a nongovernmental organization, or any other private entity is eligible to submit an application under this part to become a recipient under the Food for Progress Program. CCC will set forth specific eligibility information, including any factors or priorities that will affect the eligibility of an applicant or application for selection, in the full text of the applicable notice of funding opportunity posted on the U.S. Government Web site for grant opportunities.

(b) Applicants, recipients, and subrecipients must comply with policies established by CCC pursuant to 2 CFR 400.2(a), and with the requirements in 2 CFR 400.2(b), regarding conflicts of interest.

§ 1499.4 Application process.

(a) An applicant seeking to enter into an agreement with CCC must submit an application, in accordance with this section, that sets forth its proposal to carry out activities under the FFPr Program in a proposed target country(ies). An application must contain the items specified in paragraph (b) of this section as well as any other items required by the notice of funding opportunity and must be submitted electronically to CCC at the address set forth in the notice of funding opportunity.

(b) An applicant must include the following items in its application:

(1) A completed Form SF–424, which is a standard application for Federal assistance;

(2) An introduction and a strategic analysis, which includes an impact analysis, as specified in the notice of funding opportunity;

(3) A plan of operation that contains the elements specified in the notice of funding opportunity;

(4) A summary line item budget and a detailed budget narrative that indicate:

(i) The amounts of any sale proceeds, CCC-provided funds, interest, program income, and voluntary committed cost sharing or matching contributions that the applicant proposes to use to fund:

(A) Administrative costs;

(B) Inland and internal transportation, storage and handling (ITSH) costs; and

(C) Activity costs;

(ii) Where applicable, how the applicant's indirect cost rate will be applied to each type of expense; and

(iii) The amount of funding that will be provided to each proposed subrecipient under the agreement;

(5) A project-level results framework that outlines the changes that the applicant expects to accomplish through the proposed project and is based on the FFPr Program-level results framework, as set forth in the notice of funding opportunity;

(6) Unless otherwise specified in the notice of funding opportunity, an evaluation plan that describes the proposed design, methodology, and time frame of the project's evaluation activities, and how the applicant intends to manage these activities, and that will include a baseline study, interim evaluation, final evaluation, and any applicable special studies; and

(7) Any additional required items set forth in the notice of funding opportunity.

(c) Each applicant (unless the applicant has an exception approved by CCC under 2 CFR 25.110(d)) is required to:

(1) Be registered in the System for Award Management (SAM) before submitting its application;

(2) Provide a valid unique entity identifier in its application; and

(3) Continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

§ 1499.5 Agreements.

(a) After CCC approves an application by an applicant, CCC will negotiate an agreement with the applicant. The agreement will set forth the obligations of CCC and the recipient.

(b) The agreement will specify the general information required in 2 CFR 200.210(a), as applicable.

(c) The agreement will incorporate general terms and conditions, pursuant to 2 CFR 200.210(b), as applicable.

(d) To the extent that this information is not already included in the agreement pursuant to paragraphs (b) and (c) of this section, the agreement will also include the following:

(1) The kind, quantity, and use of the donated commodities and an estimated commodity call forward schedule, with the month and year indicated for each expected commodity shipment;

(2) A plan of operation, which will include the following:

(i) The objectives to be accomplished under the project;

(ii) A detailed description of each activity to be implemented;

(iii) The target country(ies) and the areas of the target country(ies) in which the activities will be implemented;

(iv) The methods and criteria for selecting the beneficiaries of the activities;

(v) Any contributions for cost sharing or matching, including cash and non-cash contributions, that the recipient expects to receive from non-CCC sources that:

(A) Are critical to the implementation of the activities; or

(B) Enhance the implementation of the activities;

(vi) Any subrecipient that will be involved in the implementation of the activities, and the criteria for selecting a subrecipient that has not yet been identified;

(vii) Any other governmental or nongovernmental entities that will be involved in the implementation of the activities;

(viii) Any processing, packaging or repackaging of the donated commodities that will take place prior to their distribution, sale or barter by the recipient; and

(ix) Any additional provisions specified by CCC during the negotiation of the agreement;

(3) A budget, which will set forth the maximum amounts of sale proceeds, CCC-provided funds, interest, program income, and voluntary committed cost sharing or matching contributions that may be used for each line item, as well as other applicable budget requirements; and

(4) Performance goals for the agreement, including a list of results, with long-term benefits where applicable, to be achieved by the activities and corresponding indicators, targets, and time frames.

(e) The agreement will also include specific terms and conditions, and certifications and representations, including the following:

(1) The agreement will prohibit the sale or transshipment of the donated commodities by the recipient to a country not specified in the agreement for as long as the recipient has title to such donated commodities;

(2) The recipient will assert that it has taken action to ensure that any donated commodities that will be distributed to beneficiaries will be imported and distributed free from all customs, duties, tolls, and taxes. The recipient must submit information to CCC to support this assertion;

(3) The recipient will assert that, to the best of its knowledge, the importation and distribution of the donated commodities in the target country will not result in a substantial disincentive to or interference with domestic production or marketing in that country. The recipient must submit information to CCC to support this assertion;

(4) The recipient will assert that, to the best of its knowledge, any sale or barter of the donated commodities will not displace or interfere with any sales of like commodities that may otherwise be made within the target country. The recipient must submit information to CCC to support this assertion; and

(5) The recipient will assert that adequate transportation and storage facilities will be available in the target country to prevent spoilage or waste of the donated commodities. The recipient must submit information to CCC to support this assertion.

(f) CCC may enter into a multicountry agreement in which donated commodities are delivered to one country and activities are carried out in another.

(g) CCC may provide donated commodities and CCC-provided funds under a multiyear agreement contingent upon the availability of commodities and funds.

§ 1499.6 Payments.

(a) If a recipient arranges for transportation in accordance with § 1499.7(b)(2), CCC will, as specified in the agreement, pay the costs of such transportation to the ocean carrier or to the recipient. The recipient must, as specified in the agreement, submit to CCC, arrange to be submitted to CCC, or maintain on file and make available to CCC, the following documents:

(1) The original, or a true copy of, each on board bill of lading indicating the freight rate and signed by the originating ocean carrier;

(2) For all non-containerized cargoes:

(i) A signed copy of the Federal Grain Inspection Service (FGIS) Official Stowage Examination Certificate;

(ii) A signed copy of the National Cargo Bureau Certificate of Readiness; and

(iii) A signed copy of the Certificate of Loading issued by the National Cargo Bureau or a similar qualified independent surveyor;

(3) For all containerized cargoes, a copy of the FGIS Container Condition Inspection Certificate;

(4) A signed copy of the U.S. Food Aid Booking Note or charter party covering ocean transportation of the cargo;

(5) In the case of charter shipments, a signed notice of arrival at the first discharge port, unless CCC has determined that circumstances that could not have been reasonably anticipated or controlled (force majeure) have prevented the ocean carrier's arrival at the first port of discharge; and

(6) A request for payment of freight, survey costs other than at load port, and other expenses approved by CCC.

(b) If the agreement specifies that some or all of the documents listed in paragraph (a) of this section will be submitted to CCC, then CCC will not render payment for transportation services until it has received all of the specified documents.

(c) If a recipient arranges for transportation in accordance with § 1499.7(b)(2), and the recipient uses a freight forwarder, the recipient must ensure that the freight forwarder is registered in the SAM and require the freight forwarder to submit the documents specified in paragraph (a) of this section. The recipient will ensure that the total commission or fees paid to intermediaries in the transportation procurement process will not exceed two and a half percent of the total transportation costs.

(d) In no case will CCC provide payment to a recipient for demurrage costs or pay demurrage to any other entity.

(e) If CCC has agreed to be responsible for the costs of transporting, storing, and distributing the donated commodities from the designated discharge port or point of entry, and if the recipient will bear or has borne any of these costs, in accordance with the agreement, CCC will either provide an advance payment or a reimbursement to the recipient in the amount of such costs, in the manner set forth in the agreement.

(f) If the agreement authorizes the payment of CCC-provided funds, CCC will generally provide the funds to the recipient on an advance payment basis, in accordance with 2 CFR 200.305(b). In addition, the following procedures will apply to advance payments:

(1) A recipient may request advance payments of CCC-provided funds, up to the total amount specified in the agreement. When making an advance payment request, a recipient must provide, for each agreement for which it is requesting an advance, total expenditures to date; an estimate of expenses to be covered by the advance; total advances previously requested, if any; the amount of cash on hand from the preceding advance; and, if necessary, a request to roll over any unused funds from the preceding advance to the current request period. The advance payment request must take into account any program income earned since the preceding advance.

(2) Whenever possible, a recipient should consolidate advance payment requests to cover anticipated cash needs for all food assistance program awards made by CCC to the recipient. A recipient may request advance payments with no minimum time required between requests.

(3) A recipient must minimize the amount of time that elapses between the transfer of funds by CCC and the disbursement of funds by the recipient. A recipient must fully disburse funds from the preceding advance before it submits a new advance request for the same agreement, with the exception that the recipient may request to retain the balance of any funds that have not been disbursed and roll it over into a new advance request if the new advance request is made within 90 days after the preceding advance was made.

(4) CCC will review all requests to roll over funds from the preceding advance that have not been disbursed and make a decision based on the merits of the request. CCC will consider factors such as the amount of funding that a recipient is requesting to roll over, the length of time that the recipient has been in possession of the funds, any unforeseen or extenuating circumstances, the recipient's history of performance, and findings from recent financial audits or compliance reviews.

(5) CCC will not approve any request for an advance or rollover of funds if the most recent financial report, as specified in the agreement, is past due, or if any required report, as specified in any open agreement between the recipient and CCC or FAS, is more than three months in arrears.

(6)(i) A recipient must return to CCC any funds advanced by CCC that have not been disbursed as of the 91st day after the advance was made; provided, however, that paragraphs (f)(6)(ii) and (iii) of this section will apply if the recipient submits a request to CCC before that date to roll over the funds into a new advance.

(ii) If a recipient submits a request to roll over funds into a new advance, and CCC approves the rollover of funds, such funds will be considered to have been advanced on the date that the recipient receives the approval notice from CCC, for the purposes of complying with the requirement in paragraph (f)(6)(i) of this section.

(iii) If a recipient submits a request to roll over funds into a new advance, and CCC does not approve the rollover of some or all of the funds, such funds must be returned to CCC.

(iv) If a recipient must return funds to CCC in accordance with paragraph (e)(6) of this section, the recipient must return the funds by the later of five business days after the 91st day after the funds were advanced, or five business days after the date on which the recipient receives notice from CCC that it has denied the recipient's request to roll over the funds; provided, however, that CCC may specify a different date for the return of funds in a written communication to the recipient.

(7) Except as may otherwise be provided in the agreement, a recipient must deposit and maintain in an insured bank account located in the United States all funds advanced by CCC. The account must be interest-bearing, unless one of the exceptions in 2 CFR 200.305(b)(8) applies or CCC determines that this requirement would constitute an undue burden. A recipient will not be required to maintain a separate bank account for advance payments of CCC-provided funds. However, a recipient must be able to separately account for the receipt, obligation, and expenditure of funds under each agreement.

(8) A recipient may retain, for administrative purposes, up to $500 per Federal fiscal year of any interest earned on funds advanced under an agreement. The recipient must remit to the U.S. Department of Health and Human Services, Payment Management System, any additional interest earned during the Federal fiscal year on such funds, in accordance with the procedures in 2 CFR 200.305(b)(9).

(g) If a recipient is required to pay funds to CCC in connection with an agreement, the recipient must make such payment in U.S. dollars, unless otherwise approved in advance by CCC.

§ 1499.7 Transportation of donated commodities.

(a) Shipments of donated commodities are subject to the requirements of 46 U.S.C. 55305, regarding carriage on U.S.-flag vessels.

(b) Transportation of donated commodities and other goods such as bags that may be provided by CCC under the FFPr Program will be arranged for under a specific agreement in the manner determined by CCC. Such transportation will be arranged for by:

(1) CCC in accordance with the Federal Acquisition Regulation (FAR) in chapter 1 of title 48, the Agriculture Acquisition Regulation (AGAR) in chapter 4 of title 48, and directives issued by the Director, Office of Procurement and Property Management, USDA; or

(2) The recipient, with payment by CCC, in the manner specified in the agreement.

(c) A recipient that is responsible for transportation under paragraph (b)(2) of this section must declare in the transportation contract the point at which the ocean carrier will take custody of donated commodities to be transported.

(d) A recipient that arranges for transportation in accordance with paragraph (b)(2) of this section may only use the services of a freight forwarder that is licensed by the Federal Maritime Commission and that would not have a conflict of interest in carrying out the freight forwarder duties. To assist CCC in determining whether there is a potential conflict of interest, the recipient must submit to CCC a certification indicating that the freight forwarder:

(1) Is not engaged in, and will not engage in, supplying commodities or furnishing ocean transportation or ocean transportation-related services for commodities provided under any FFPr Program agreement to which the recipient is a party; and

(2) Is not affiliated with the recipient and has not made arrangements to give or receive any payment, kickback, or illegal benefit in connection with its selection as an agent of the recipient.

§ 1499.8 Entry, handling, and labeling of donated commodities and notification requirements.

(a) A recipient must make all necessary arrangements for receiving the donated commodities in the target country, including obtaining appropriate approvals for entry and transit. The recipient must make arrangements with the target country government for all donated commodities that will be distributed to beneficiaries to be imported and distributed free from all customs duties, tolls, and taxes. A recipient is encouraged to make similar arrangements, where possible, with the government of a country where donated commodities to be sold or bartered are delivered.

(b) A recipient must, as provided in the agreement, arrange for transporting, storing, and distributing the donated commodities from the designated point and time where title to the donated commodities passes to the recipient.

(c) A recipient must store and maintain the donated commodities in good condition from the time of delivery at the port of entry or the point of receipt from the originating carrier until their distribution, sale or barter.

(d)(1) If a recipient arranges for the packaging or repackaging of donated commodities that are to be distributed, the recipient must ensure that the packaging:

(i) Is plainly labeled in the language of the target country;

(ii) Contains the name of the donated commodities;

(iii) Includes a statement indicating that the donated commodities are furnished by the United States Department of Agriculture; and

(iv) Includes a statement indicating that the donated commodities must not be sold, exchanged or bartered.

(2) If a recipient arranges for the processing and repackaging of donated commodities that are to be distributed, the recipient must ensure that the packaging:

(i) Is plainly labeled in the language of the target country;

(ii) Contains the name of the processed product;

(iii) Includes a statement indicating that the processed product was made with commodities furnished by the United States Department of Agriculture; and

(iv) Includes a statement indicating that the processed product must not be sold, exchanged or bartered.

(3) If a recipient distributes donated commodities that are not packaged, the recipient must display a sign at the distribution site that includes the name of the donated commodities, a statement indicating that the donated commodities are being furnished by the United States Department of Agriculture, and a statement indicating that the donated commodities must not be sold, exchanged, or bartered.

(e) A recipient must ensure that signs are displayed at all activity implementation and commodity distribution sites to inform beneficiaries that funding for the project was provided by the United States Department of Agriculture.

(f) A recipient must also ensure that all public communications relating to the project, the activities, or the donated commodities, whether made through print, broadcast, digital, or other media, include a statement acknowledging that funding was provided by the United States Department of Agriculture.

(g) CCC may waive compliance with one or more of the labeling and notification requirements in paragraphs (d), (e) and (f) of this section if a recipient demonstrates to CCC that the requirement presents a safety and security risk in the target country. If a recipient determines that compliance with a labeling or notification requirement poses an imminent threat of destruction of property, injury, or loss of life, the recipient must submit a waiver request to CCC as soon as possible. The recipient will not have to comply with such requirement during the period prior to the issuance of a waiver determination by CCC. A recipient may submit a written request for a waiver at any time after the agreement has been signed.

(h) In exceptional circumstances, CCC may, on its own initiative, waive one or more of the labeling and notification requirements in paragraphs (d), (e) and (f) of this section for programmatic reasons.

§ 1499.9 Damage to or loss of donated commodities.

(a) CCC will be responsible for the donated commodities prior to the transfer of title to the commodities to the recipient. The recipient will be responsible for the donated commodities following the transfer of title to the donated commodities to the recipient. The title will transfer as specified in the agreement.

(b) A recipient must inform CCC, in the manner and within the time period set forth in the agreement, of any damage to or loss of the donated commodities that occurs following the transfer of title to the donated commodities to the recipient. The recipient must take all steps necessary to protect its interests and the interests of CCC with respect to any damage to or loss of the donated commodities that occurs after title has been transferred to the recipient.

(c) A recipient will be responsible for arranging for an independent cargo surveyor to inspect the donated commodities upon discharge from the ocean carrier and prepare a survey or outturn report. The report must show the quantity and condition of the donated commodities discharged from the ocean carrier and must indicate the most likely cause of any damage noted in the report. The report must also indicate the time and place when the survey took place. All discharge surveys must be conducted contemporaneously with the discharge of the ocean carrier, unless CCC determines that failure to do so was justified under the circumstances. For donated commodities shipped on a through bill of lading, the recipient must also obtain a delivery survey. All surveys obtained by the recipient must, to the extent practicable, be conducted jointly by the surveyor, the recipient, and the carrier, and the survey report must be signed by all three parties. The recipient must obtain a copy of each discharge or delivery survey report within 45 days after the completion of the survey. The recipient must make each such report available to CCC upon request, or in the manner specified in the agreement. CCC will reimburse the recipient for the reasonable costs of these services, as determined by CCC, in the manner specified in the agreement.

(d) If donated commodities are damaged or lost during the time that they are in the care of the ocean carrier:

(1) The recipient must ensure that any reports, narrative chronology, or other commentary prepared by the independent cargo surveyor, and any such documentation prepared by a port authority, stevedoring service, or customs official, or an official of the transit or target country government or the transportation company, are provided to CCC;

(2) The recipient must provide to CCC the names and addresses of any individuals known to be present at the time of discharge or unloading, or during the survey, who can verify the quantity of damaged or lost donated commodities;

(3) If the damage or loss occurred with respect to a bulk shipment on an ocean carrier, the recipient must ensure that the independent cargo surveyor:

(i) Observes the discharge of the cargo;

(ii) Reports on discharging methods, including scale type, calibrations and any other factors that may affect the accuracy of scale weights, and, if scales are not used, states the reason therefor and describes the actual method used to determine weight;

(iii) Estimates the quantity of cargo, if any, lost during discharge through carrier negligence;

(iv) Advises on the quality of sweepings;

(v) Obtains copies of port or ocean carrier records, if possible, showing the quantity discharged; and

(vi) Notifies the recipient immediately if the surveyor has reason to believe that the correct quantity was not discharged or if additional services are necessary to protect the cargo; and

(4) If the damage or loss occurred with respect to a container shipment on an ocean carrier, the recipient must ensure that the independent cargo surveyor lists the container numbers and seal numbers shown on the containers, indicates whether the seals were intact at the time the containers were opened, and notes whether the containers were in any way damaged.

(e) If a recipient has title to the donated commodities, and donated commodities valued in excess of $5,000 are damaged at any time prior to their distribution or sale under the agreement, regardless of the party at fault, the recipient must immediately arrange for an inspection by a public health official or other competent authority approved by CCC and provide to CCC a certification by such public health official or other competent authority regarding the exact quantity and condition of the damaged donated commodities. The value of damaged donated commodities must be determined on the basis of the commodity acquisition, transportation, and related costs incurred by CCC with respect to such commodities, as well as such costs incurred by the recipient and paid by CCC. The recipient must inform CCC of the results of the inspection and indicate whether the damaged donated commodities are:

(1) Fit for the use authorized in the agreement and, if so, whether there has been a diminution in quality; or

(2) Unfit for the use authorized in the agreement.

(f)(1) If a recipient has title to the donated commodities, the recipient must arrange for the recovery of that portion of the donated commodities designated as fit for the use authorized in the agreement. The recipient must dispose of donated commodities that are unfit for such use in the following order of priority:

(i) Sale for the most appropriate use, *i.e.,* animal feed, fertilizer, industrial use, or another use approved by CCC, at the highest obtainable price;

(ii) Donation to a governmental or charitable organization for use as animal feed or another non-food use; or

(iii) Destruction of the donated commodities if they are unfit for any use, in such manner as to prevent their use for any purpose.

(2) A recipient must arrange for all U.S. Government markings to be obliterated or removed before the donated commodities are transferred by sale or donation under paragraph (f)(1) of this section.

(g) A recipient may retain any proceeds generated by the disposal of the donated commodities in accordance with paragraph (f)(1) of this section and must use the retained proceeds for expenses related to the disposal of the donated commodities and for activities specified in the agreement.

(h) A recipient must notify CCC immediately and provide detailed information about the actions taken in accordance with paragraph (f) of this section, including the quantities, values and dispositions of donated commodities determined to be unfit.

§ 1499.10 Claims for damage to or loss of donated commodities.

(a) CCC will be responsible for claims arising out of damage to or loss of a quantity of the donated commodities prior to the transfer of title to the donated commodities to the recipient. The recipient will be responsible for claims arising out of damage to or loss of a quantity of the donated commodities after the transfer of title to the donated commodities.

(b) If a recipient has title to donated commodities that have been damaged or lost, and the value of the damaged or lost donated commodities is estimated to be in excess of $20,000, the recipient must:

(1) Notify CCC immediately and provide detailed information about the circumstances surrounding such damage or loss, the quantity of damaged or lost donated commodities, and the value of the damage or loss;

(2) Promptly upon discovery of the damage or loss, initiate a claim arising out of such damage or loss, including, if appropriate, initiating an action to collect pursuant to a commercial insurance contract;

(3) Take all necessary action to pursue the claim diligently and within any applicable periods of limitations; and

(4) Provide to CCC copies of all documentation relating to the claim.

(c) If a recipient has title to donated commodities that have been damaged or lost, and the value of the damaged or lost donated commodities is estimated to be $20,000 or less, the recipient must notify CCC in accordance with the agreement and provide detailed information about the damage or loss in the next report required to be filed under § 1499.13(f)(1) or (2).

(d)(1) The value of a claim for lost donated commodities will be determined on the basis of the commodity acquisition, transportation, and related costs incurred by CCC with respect to such commodities, as well as such costs incurred by the recipient and paid by CCC.

(2) The value of a claim for damaged donated commodities will be determined on the basis of the

commodity acquisition, transportation, and related costs incurred by CCC with respect to such commodities, as well as such costs incurred by the recipient and paid by CCC, less any funds generated if such commodities are sold in accordance with § 1499.9(f)(1).

(e) If CCC determines that a recipient has not initiated a claim or is not exercising due diligence in the pursuit of a claim, CCC may require the recipient to assign its rights to initiate or pursue the claim to CCC. Failure by the recipient to initiate a claim or exercise due diligence in the pursuit of a claim will be considered by CCC during the review of applications for subsequent food assistance awards.

(f)(1) A recipient may retain any funds obtained as a result of a claims collection action initiated by it in accordance with this section, or recovered pursuant to any insurance policy or other similar form of indemnification, but such funds must be expended in accordance with the agreement or for other purposes approved in advance by CCC.

(2) CCC will retain any funds obtained as a result of a claims collection action initiated by it under this section; provided, however, that if the recipient paid for the transportation of the donated commodities or a portion thereof, CCC will use a portion of such funds to reimburse the recipient for such expense on a prorated basis.

§ 1499.11 Use of donated commodities, sale proceeds, CCC-provided funds, and program income.

(a) A recipient must use the donated commodities, any sale proceeds, CCC-provided funds, interest, and program income in accordance with the agreement.

(b) A recipient must not use donated commodities, sale proceeds, CCC-provided funds, interest, or program income for any activity or any expense incurred by the recipient or a subrecipient prior to the start date of the period of performance of the agreement or after the agreement is suspended or terminated, without the prior written approval of CCC.

(c) A recipient must not permit the distribution, handling, or allocation of donated commodities on the basis of political affiliation, geographic location, or the ethnic, tribal or religious identity or affiliation of the potential consumers or beneficiaries.

(d) A recipient must not permit the distribution, handling, or allocation of donated commodities by the military forces of any government or insurgent group without the specific authorization of CCC.

(e) A recipient must not use sale proceeds, CCC-provided funds, interest, or program income to acquire goods and services, either directly or indirectly through another party, in a manner that violates country-specific economic sanction programs, as specified in the agreement.

(f) A recipient may sell or barter donated commodities only if such sale or barter is provided for in the agreement or the recipient is disposing of damaged donated commodities as specified in § 1499.9(f). The recipient must sell donated commodities at a reasonable market price. The recipient must obtain approval of its proposed sale price from CCC before selling donated commodities. The recipient must use any sale proceeds, interest, program income, or goods or services derived from the sale or barter of the donated commodities only as provided in the agreement.

(g) A recipient must deposit and maintain all sale proceeds, CCC-provided funds, and program income in a bank account until they are used for a purpose authorized under the agreement or the CCC-provided funds are returned to CCC in accordance with § 1499.6(f)(6). The account must be insured unless it is in a country where insurance is unavailable. The account must be interest-bearing, unless one of the exceptions in 2 CFR 200.305(b)(8) applies or CCC determines that this requirement would constitute an undue burden. The recipient must comply with the requirements in § 1499.6(f)(7) with regard to the deposit of advance payments by CCC.

(h)(1) Except as provided in paragraph (h)(2) of this section, a recipient may make adjustments within the agreement budget between direct cost line items without further approval, provided that the total amount of adjustments does not exceed ten percent of the Grand Total Costs, excluding any voluntary committed cost sharing or matching contributions, in the agreement budget. Adjustments beyond these limits require the prior approval of CCC.

(2) A recipient must not transfer any funds budgeted for participant support costs, as defined in 2 CFR 200.75, to other categories of expense without the prior approval of CCC.

(i) A recipient may use sale proceeds, CCC-provided funds, or program income to purchase real or personal property only if local law permits the recipient to retain title to such property. However, a recipient must not use sale proceeds, CCC-provided funds, or program income to pay for the acquisition, development, construction, alteration or upgrade of real property that is:

(1) Owned or managed by a church or other organization engaged exclusively in religious pursuits; or

(2) Used in whole or in part for sectarian purposes, except that a recipient may use sale proceeds, CCC-provided funds, or program income to pay for repairs to or rehabilitation of a structure located on such real property to the extent necessary to avoid spoilage or loss of donated commodities, but only if the structure is not used in whole or in part for any religious or sectarian purposes while the donated commodities are stored in it. If the use of sale proceeds, CCC-provided funds, or program income to pay for repairs to or rehabilitation of such a structure is not specifically provided for in the agreement, the recipient must not use the sale proceeds, CCC-provided funds, or program income for this purpose until it receives written approval from CCC.

(j) A recipient must comply with 2 CFR 200.321 when procuring goods and services in the United States. When procuring goods and services outside of the United States, a recipient should endeavor to comply with 2 CFR 200.321 where practicable.

(k) A recipient must enter into a written contract with each provider of goods, services, or construction work that is valued at or above the Simplified Acquisition Threshold. Each such contract must require the provider to maintain adequate records to account for all donated commodities, funds, or both furnished to the provider by the recipient and to comply with any other applicable requirements that may be specified by CCC in the agreement. The recipient must submit a copy of the signed contracts to CCC upon request.

§ 1499.12 Monitoring and evaluation requirements.

(a) A recipient will be responsible for designing a performance monitoring plan for the project, obtaining written approval of the plan from CCC before putting it into effect, and managing and implementing the plan, unless otherwise specified in the agreement.

(b) A recipient must establish baseline values, annual targets, and life of activity targets for each performance indicator included in the recipient's approved performance monitoring plan, unless otherwise specified in the agreement.

(c) A recipient must inform CCC, in the manner and within the time period specified in the agreement, of any problems, delays, or adverse conditions that materially impair the recipient's ability to meet the objectives of the agreement. This notification must include a statement of any corrective actions taken or contemplated by the recipient, and any additional assistance requested from CCC to resolve the situation.

(d) A recipient will be responsible for designing an evaluation plan for the project, obtaining written approval of the plan from CCC before putting it into effect, and arranging for an independent third party to implement the evaluation, unless otherwise specified in the agreement. This evaluation plan will detail the evaluation purpose and scope, key evaluation questions, evaluation methodology, time frame, evaluation management, and cost. This plan will generally be based upon the evaluation plan that the recipient submitted to CCC as part of its application, pursuant to § 1499.4(b)(6), unless the notice of funding opportunity specified that an evaluation plan was not required to be included in the application. The recipient must ensure that the evaluation plan:

(1) Is designed using the most rigorous methodology that is appropriate and feasible, taking into account available resources, strategy, current knowledge and evaluation practices in the sector, and the implementing environment;

(2) Is designed to inform management, activity implementation, and strategic decision-making;

(3) Utilizes analytical approaches and methodologies, based on the questions to be addressed, project design, budgetary resources available, and level of rigor and evidence required, which may be implemented through methods such as case studies, surveys, quasi-experimental designs, randomized field experiments, cost-effectiveness analyses, implementation reviews, or a combination of methods;

(4) Adheres to generally accepted evaluation standards and principles;

(5) Uses participatory approaches that seek to include the perspectives of diverse parties and all relevant stakeholders; and

(6) Where possible, utilizes local consultants and seeks to build local capacity in evaluation.

(e)(1) Unless otherwise provided in the agreement, a recipient must arrange for evaluations of the project to be conducted by an independent third party that:

(i) Is financially and legally separate from the recipient's organization; and

(ii) Has staff with demonstrated methodological, cultural and language competencies, and specialized experience in conducting evaluations of international development programs involving agriculture, trade, education, and nutrition, provided that CCC may determine that, for a particular agreement, the staff of the independent third party evaluator is not required to have specialized experience in conducting evaluations of programs involving one or more of these four areas.

(2) A recipient must provide a written certification to CCC that there is no real or apparent conflict of interest on the part of any recipient staff member or third party entity designated or hired to play a substantive role in the evaluation of activities under the agreement.

(f) CCC will be considered a key stakeholder in all evaluations conducted as part of the agreement.

(g)(1) A recipient is responsible for establishing the required financial and human capital resources for monitoring and evaluation of activities under the agreement. The recipient must maintain a separate budget for monitoring and evaluation, with separate budget line items for dedicated recipient monitoring and evaluation staff and independent third-party evaluation contracts.

(2) Personnel at a recipient's headquarters offices and field offices with specialized expertise and experience in monitoring and evaluation may be used by the recipient for dedicated monitoring and evaluation. Unless otherwise specified in the agreement or approved evaluation plan, all evaluations must be managed by the recipient's evaluation experts outside of the recipient's line management for the activities.

(h) CCC may independently conduct or commission an evaluation of a single agreement or an evaluation that includes multiple agreements. A recipient must cooperate, and comply with any demands for information or materials made in connection, with any evaluation conducted or commissioned by CCC. Such evaluations may be conducted by CCC internally or by a CCC-hired external evaluation contractor.

§ 1499.13 Reporting and record keeping requirements.

(a) A recipient must comply with the performance and financial monitoring and reporting requirements in the agreement and 2 CFR 200.327 through 200.329.

(b) A recipient must submit financial reports to CCC, by the dates and for the reporting periods specified in the agreement. Such reports must provide an accurate accounting of sale proceeds, CCC-provided funds, interest, program income, and voluntary committed cost sharing or matching contributions.

(c)(1) A recipient must submit performance reports to CCC, by the dates and for the reporting periods specified in the agreement. These reports must include the information required in 2 CFR 200.328(b)(2), including additional pertinent information regarding the recipient's progress, measured against established indicators, baselines, and targets, towards achieving the expected results specified in the agreement. This reporting must include, for each performance indicator, a comparison of actual accomplishments with the baseline and the targets established for the period. When actual accomplishments deviate significantly from targeted goals, the recipient must provide an explanation in the report.

(2) A recipient must ensure the accuracy and reliability of the performance data submitted to CCC in performance reports. At any time during the period of performance of the agreement, CCC may review the recipient's performance data to determine whether it is accurate and reliable. The recipient must comply with all requests made by CCC or an entity designated by CCC in relation to such reviews.

(d) Baseline, interim, and final evaluation reports are required for all agreements, unless otherwise specified in the agreement. The reports must be submitted in accordance with the timeline in the CCC-approved evaluation plan. Evaluation reports submitted to CCC may be made public in an effort to increase accountability and transparency and share lessons learned and best practices.

(e) A recipient must, within 30 days after export of all or a portion of the donated commodities, submit evidence of such export to CCC, in the manner set forth in the agreement. The evidence may be submitted through an electronic media approved by CCC or by providing the carrier's on board bill of lading. The evidence of export must show the kind and quantity of commodities exported, the date of export, and the country where the commodities will be delivered. The date of export is the date that the ocean carrier carrying the donated commodities sails from the final U.S. load port.

(f)(1) The recipient must submit reports to CCC, using a form prescribed by CCC, covering the receipt, handling, and disposition of the donated commodities. Such reports must be submitted to CCC, by the dates and for the reporting periods specified in the agreement, until all of the donated commodities have been distributed, sold or bartered, and such disposition has been reported to CCC.

(2) If the agreement authorizes the sale or barter of donated commodities, the recipient must submit to CCC, using a form prescribed by CCC, reports covering the receipt and use of the sale proceeds when the donated commodities were sold, the goods and services derived from barter when the donated commodities were bartered, and program income. Such reports must be submitted to CCC, by the dates and for the reporting periods specified in the agreement, until all of the sale proceeds and program income have been disbursed and reported to CCC. When reporting financial information, the recipient must include the amounts in U.S. dollars and the exchange rate if proceeds are held in local currency.

(g) If requested by CCC, a recipient must provide to CCC additional information or reports relating to the agreement.

(h) If a recipient requires an extension of a reporting deadline, it must ensure that CCC receives an extension request at least five business days prior to the reporting deadline. CCC may decline to consider a request for an extension that it receives after this time period. CCC will consider requests for reporting deadline extensions on a case by case basis and make a decision based on the merits of each request. CCC will consider factors such as unforeseen or extenuating circumstances and past performance history when evaluating requests for extensions.

(i) The recipient must retain records and permit access to records in accordance with the requirements of 2 CFR 200.333 through 200.337. The date of submission of the final expenditure report, as referenced in 2 CFR 200.333, will be the final date of submission of the reports required by paragraphs (f)(1) and (2) of this section, as prescribed by CCC. The recipient must retain copies of and make available to CCC all sales receipts, contracts, or other documents related to the sale or barter of donated commodities and any goods or services derived from such barter, as well as records of dispatch received from ocean carriers.

§ 1499.14 Subrecipients.

(a) A recipient may utilize the services of a subrecipient to implement activities under the agreement if this is provided for in the agreement. The subrecipient may receive donated commodities, sale proceeds, CCC-provided funds, program income, or other resources from the recipient for this purpose. The recipient must enter into a written subagreement with the subrecipient and comply with the applicable provisions of 2 CFR 200.331. The recipient must provide a copy of each subagreement to CCC, in the manner set forth in the agreement, prior to the transfer of any donated commodities, sale proceeds, CCC-provided funds, or program income to the subrecipient.

(b) A recipient must include the following requirements in a subagreement:

(1) The subrecipient is required to comply with the applicable provisions of this part and 2 CFR parts 200 and 400. The applicable provisions are those that relate specifically to subrecipients, as well as those relating to non-Federal entities that impose requirements that would be reasonable to pass through to a subrecipient because they directly concern the implementation by the subrecipient of one or more activities under the agreement. If there is a question about whether a particular provision is applicable, CCC will make the determination.

(2) The subrecipient is prohibited from using sale proceeds, CCC-provided funds, interest, or program income to acquire goods and services, either directly or indirectly through another party, in a manner that violates country-specific economic sanction programs, as specified in the agreement.

(3) The subrecipient must pay to the recipient the value of any donated commodities, sale proceeds, CCC-provided funds, interest, or program income that are not used in accordance with the subagreement, or that are lost, damaged, or misused as a result of the subrecipient's failure to exercise reasonable care.

(4) In accordance with § 1499.18 and 2 CFR 200.501(h), a description of the applicable compliance requirements and the subrecipient's compliance responsibility. Methods to ensure compliance may include pre-award audits, monitoring during the agreement, and post-award audits.

(c) A recipient must monitor the actions of a subrecipient as necessary to ensure that donated commodities, sale proceeds, CCC-provided funds, and program income provided to the subrecipient are used for authorized purposes in compliance with applicable U.S. Federal laws and regulations and the subagreement and that performance indicator targets are achieved for both activities and results under the agreement.

§ 1499.15 Noncompliance with an agreement.

If a recipient fails to comply with a Federal statute or regulation or the terms and conditions of the agreement, and CCC determines that the noncompliance cannot be remedied by imposing additional conditions, CCC may take one or more of the actions set forth in 2 CFR 200.338, including initiating a claim as a remedy. CCC may also initiate a claim against a recipient if the donated commodities are damaged or lost, or the sale proceeds, goods received through barter, CCC-provided funds, interest, or program income are misused or lost, due to an action or omission of the recipient.

§ 1499.16 Suspension and termination of agreements.

(a) An agreement or subagreement may be suspended or terminated in accordance with 2 CFR 200.338 or 200.339. CCC may suspend or terminate an agreement if it determines that:

(1) One of the bases in 2 CFR 200.338 or 200.339 for termination or suspension by CCC has been satisfied;

(2) The continuation of the assistance provided under the agreement is no longer necessary or desirable; or

(3) Storage facilities are inadequate to prevent spoilage or waste, or distribution of the donated commodities will result in substantial disincentive to, or interference with, domestic production or marketing in the target country.

(b) If an agreement is terminated, the recipient:

(1) Is responsible for the security and integrity of any undistributed donated commodities and must dispose of such commodities only as agreed to by CCC;

(2) Is responsible for any sale proceeds, CCC-provided funds, interest, or program income that have not been disbursed and must use or return them only as agreed to by CCC; and

(3) Must comply with the closeout and post-closeout provisions specified in the agreement and 2 CFR 200.343 and 200.344.

§ 1499.17 Opportunities to object and appeals.

(a) CCC will provide an opportunity to a recipient to object to, and provide information and documentation challenging, any action taken by CCC pursuant to § 1499.15. CCC will comply with any requirements for hearings, appeals, or other administrative proceedings to which the recipient is entitled under any other statute or regulation applicable to the action involved. For example, if the action taken by CCC pursuant to § 1499.15 is to initiate suspension or debarment proceedings as authorized under 2 CFR parts 180 and 417, then the requirements in 2 CFR parts 180 and

417 will apply instead of the requirements in this section. In the absence of other applicable statutory or regulatory requirements, the requirements set forth in this section will apply.

(b) The recipient must submit its objection in writing, along with any documentation, to the CCC official specified in the agreement within 30 days after the date of CCC's written notification to the recipient of the CCC action being challenged. This official will endeavor to notify the recipient of his or her determination within 60 days after the date that CCC received the recipient's written objection.

(c) The recipient may appeal the determination of the official to the Administrator, FAS, who is also a Vice President of CCC. An appeal must be in writing and be submitted to the Office of the Administrator within 30 days after the date of the initial determination by the CCC official. The recipient may submit additional documentation with its appeal.

(d) The Administrator will base the determination on appeal upon information contained in the administrative record and will endeavor to make a determination within 60 days after the date that CCC received the appeal. The determination of the Administrator will be the final determination of CCC. The recipient must exhaust all administrative remedies contained in this section before pursuing judicial review of a determination by the Administrator.

§ 1499.18 Audit requirements.

(a) Subpart F, Audit Requirements, of 2 CFR part 200 applies to recipients and subrecipients under this part other than those that are for-profit entities, foreign public entities, or foreign organizations.

(b) A recipient or subrecipient that is a for-profit entity or a foreign organization, and that expends, during its fiscal year, a total of at least the audit requirement threshold in 2 CFR 200.501 in Federal awards, is required to obtain an audit. Such a recipient or subrecipient has the following two options to satisfy this requirement:

(1)(i) A financial audit of the agreement or subagreement, in accordance with the Government Auditing Standards issued by the United States Government Accountability Office (GAO), if the recipient or subrecipient expends Federal awards under only one CCC program during such fiscal year; or

(ii) A financial audit of all Federal awards from CCC, in accordance with GAO's Government Auditing Standards, if the recipient or subrecipient expends Federal awards under multiple CCC programs during such fiscal year; or

(2) An audit that meets the requirements contained in subpart F of 2 CFR part 200.

(c) A recipient or subrecipient that is a for-profit entity or a foreign organization, and that expends, during its fiscal year, a total that is less than the audit requirement threshold in 2 CFR 200.501 in Federal awards, is exempt from requirements under this section for an audit for that year, except as provided in paragraphs (d) and (f) of this section, but it must make records available for review by appropriate officials of Federal agencies.

(d) CCC may require an annual financial audit of an agreement or subagreement when the audit requirement threshold in 2 CFR 200.501 is not met. In that case, CCC must provide funds under the agreement for this purpose, and the recipient or subrecipient, as applicable, must arrange for such audit and submit it to CCC.

(e) When a recipient or subrecipient that is a for-profit entity or a foreign organization is required to obtain a financial audit under this section, it must provide a copy of the audit to CCC within 60 days after the end of its fiscal year.

(f) CCC, the USDA Office of Inspector General, or GAO may conduct or arrange for additional audits of any recipients or subrecipients, including for-profit entities and foreign organizations. Recipients and subrecipients must promptly comply with all requests related to such audits. If CCC conducts or arranges for an additional audit, such as an audit with respect to a particular agreement, CCC will fund the full cost of such an audit, in accordance with 2 CFR 200.503(d).

§ 1499.19 Paperwork Reduction Act.

The information collection requirements contained in this regulation have been submitted for approval by OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and have been assigned OMB control number 0551–0035. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Dated: July 29, 2016.

Suzanne Palmieri,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 2016–21343 Filed 9–9–16; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 1599

RIN 0551–AA88

McGovern-Dole International Food for Education and Child Nutrition Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The Foreign Agricultural Service (FAS) revises the regulations governing the award of agricultural commodities and financial and technical assistance to recipients under the McGovern-Dole International Food for Education and Child Nutrition (McGovern-Dole) Program. This revision is necessary to clarify requirements for applicants for, and recipients of, awards under the McGovern-Dole Program and to inform interested parties that the OMB guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as supplemented by USDA regulations, applies to awards under the McGovern-Dole Program other than awards to foreign public entities. The revised regulations will enable applicants and recipients to better understand program requirements and FAS to more effectively implement the McGovern-Dole Program.

DATES: This rule is effective September 12, 2016. Written comments must be received by FAS or carry a postmark or equivalent no later than October 12, 2016.

ADDRESSES: Submit comments to Director, Food Assistance Division, Office of Capacity Building and Development, Foreign Agricultural Service, 1400 Independence Ave. SW., STOP 1034, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Benjamin Muskovitz, Director, Food Assistance Division, Office of Capacity Building and Development, Foreign Agricultural Service, 1400 Independence Ave. SW., STOP 1034, Washington, DC 20250. Telephone: (202) 720–4221; Fax: (202) 690–0251; Email: *FAD_Contact@fas.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The McGovern-Dole International Food for Education and Child Nutrition Program helps support food security, child development, and education in low-income, food-deficit countries around the world. The program provides for the donation of U.S. agricultural commodities, as well as financial and technical assistance, to support school feeding and maternal and child health and nutrition projects. The McGovern-Dole Program is authorized in section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1).

FAS uses the regulations in 7 CFR part 1599, McGovern-Dole International Food for Education and Child Nutrition Program, in the administration of the McGovern-Dole Program. The previous version of the regulations was published as a final rule on March 26, 2009 (74 FR 13062).

On December 26, 2013, the Office of Management and Budget (OMB) issued guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200 (78 FR 78608). In 2 CFR 400.1, the United States Department of Agriculture (USDA) adopted OMB's guidance in subparts A through F of 2 CFR part 200, as supplemented by 2 CFR part 400, as USDA policies and procedures for uniform administrative requirements, cost principles, and audit requirements for Federal awards (79 FR 75982, December 19, 2014).

Revision of Regulations

FAS is revising the McGovern-Dole Program regulations in 7 CFR part 1599 through this final rule. Many of the changes to the regulations are technical in nature and intended to improve the efficiency and effectiveness of the McGovern-Dole Program. Some of the detail that was previously included in the program regulations will now be included in the applicable notice of funding opportunity.

The more significant changes to 7 CFR part 1599 include:

(1) Updating 7 CFR part 1599 to make it clear that the guidance in 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1599, applies to awards under the McGovern-Dole Program other than awards to foreign public entities. Applicants for, and recipients of, awards under the McGovern-Dole Program must consult all three parts to be informed of all regulatory requirements. Because 7 CFR part 1599 deals specifically with the McGovern-Dole Program, the provisions of 7 CFR part 1599 will apply if they differ from the provisions of 2 CFR part 200 or part 400.

(2) Clarifying the types of entities eligible for awards under the McGovern-Dole Program and the applicability of the regulations in 7 CFR part 1599 to each type of eligible entity (7 CFR 1599.1(d)–(g) and 1599.3(a)).

In accordance with 7 U.S.C. 1736o-1(e), assistance under the McGovern-Dole Program may be provided to private voluntary organizations, cooperatives, intergovernmental organizations, governments of developing countries and their agencies, and other organizations. However, the regulations do not apply to all of these entities. The guidance in 2 CFR part 200 does not generally apply to for-profit entities, foreign public entities, or foreign organizations. According to 2 CFR 200.101(c), Federal awarding agencies may apply subparts A through E of 2 CFR part 200 to for-profit entities, foreign public entities, or foreign organizations, except where the Federal awarding agency determines that the application of these subparts would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government.

FAS has determined not to apply 2 CFR parts 200 and 400 and 7 CFR part 1599 to foreign public entities. Therefore, they do not apply to foreign governments or their agencies or to intergovernmental organizations (such as the World Food Program), because these entities are included within the definition of a foreign public entity in 2 CFR 200.46.

FAS has determined to apply subparts A through E of 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1599, to for-profit entities and foreign organizations. Accordingly, they apply to applicants for, and recipients of, awards under the McGovern-Dole Program that are private voluntary organizations, including those that are foreign organizations; cooperatives, including those that are for-profit entities or foreign organizations; and other organizations, including those that are for-profit entities or foreign organizations, but not including intergovernmental organizations.

FAS has determined to apply subparts A through E of 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1599, to all subawards to all subrecipients under this part, except where the subrecipient is a foreign public entity or where FAS determines that the application of these provisions to a subrecipient that is a foreign organization would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government or would not be in the best interest of the United States.

Subpart F of 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1599, applies only to awards by FAS to recipients that are private voluntary organizations, cooperatives or other organizations, but that are not for-profit entities or foreign organizations. Subpart F of 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1499, applies to subawards to subrecipients, except where the subrecipient is a for-profit entity, foreign public entity, or foreign organization. In 7 CFR part 1599, FAS sets forth other audit requirements that apply to recipients and subrecipients that are for-profit entities or foreign organizations (7 CFR 1599.18).

(3) Adding and updating definitions of terms used in the regulations and removing definitions of terms that are no longer needed (7 CFR 1599.2).

(4) Including a requirement for an applicant to include in its application the amount of funding that will be provided to each proposed subrecipient under the agreement (7 CFR 1599.4(b)(4)(iii)).

(5) Adding new and modifying existing provisions relating to cash advances and reimbursements for expenses (7 CFR 1599.6(f)).

(6) Adding new and modifying existing labeling and notification requirements applicable to the packaging, identification, source, funding, and use of the donated commodities, while allowing for the waiver of these labeling and notification requirements in exceptional circumstances (7 CFR 1599.8(d)–(h)).

(7) Updating and clarifying language requiring recipients to report on the loss of or damage to donated commodities and pursue claims in the event of loss or damage (7 CFR 1599.9 and 1599.10).

(8) Incorporating new performance monitoring and evaluation requirements (7 CFR 1599.12).

(9) Updating reporting requirements (7 CFR 1599.13).

(10) Adding a section setting forth audit requirements for recipients and subrecipients (7 CFR 1599.18). Although the audit requirements in subpart F of 2 CFR part 200 do not apply to recipients or subrecipients that are for-profit entities or foreign organizations, FAS has determined to require such recipients and subrecipients to obtain an audit, provided that they expend, during the fiscal year, a total of at least the audit requirement threshold in 2 CFR 200.501 in Federal awards. The regulations lay out two options for satisfying this audit requirement.

Notice and Comment

This rule is being issued as a final rule without prior notice and opportunity for comment. The

Administrative Procedure Act exempts rules "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts" from the statutory requirement for prior notice and opportunity for comment (5 U.S.C. 553(a)(2)). Accordingly, this rule may be made effective less than 30 days after publication in the **Federal Register**. However, members of the public may participate in this rulemaking by submitting written comments, data, or views. FAS will consider the comments received and may conduct additional rulemaking based on the comments. Written comments must be received by FAS or carry a postmark or equivalent no later than October 12, 2016.

Catalog of Federal Domestic Assistance

The program covered by this regulation is listed in the Catalog of Federal Domestic Assistance (CFDA) under the following FAS CFDA number: 10.608, Food for Education.

E-Government Act Compliance

FAS is committed to complying with the E-Government Act of 2002 (44 U.S.C. chapter 36), to promote the use of the Internet and other information technologies to provide increased opportunities for citizens' access to Government information and services, and for other purposes.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866, "Regulatory Planning and Review." It has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, was not reviewed by OMB.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, "Civil Justice Reform." This rule does not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule will not be retroactive.

Executive Order 12372

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with officials of State and local governments that would be directly affected by the proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for the State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This rule will not directly affect State or local officials and, for this reason, it is excluded from the scope of Executive Order 12372.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare a regulatory flexibility analysis of any rule that is subject to notice and comment rulemaking under the Administrative Procedure Act (APA) or any other law, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act does not apply to this rule because FAS is not required by the APA or any other law to publish a notice of proposed rulemaking with respect to the subject matter of the rule.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, "Federalism." This rule will not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. This rule does not impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States was not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. FAS does not expect this rule to have any effect on Indian tribes.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because it does not impose any enforceable duty or contain any unfunded mandate as described under the UMRA.

List of Subjects in 7 CFR Part 1599

Agricultural commodities, Cooperative agreements, Exports, Food assistance programs, Foreign aid, Grant programs-agriculture, Technical assistance.

■ For the reasons stated in the preamble, the Foreign Agricultural Service revises 7 CFR part 1599 to read as follows:

PART 1599—McGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM

Sec.
1599.1 Purpose and applicability.
1599.2 Definitions.
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1599.7 Transportation of donated commodities.
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1599.19 Paperwork Reduction Act.

Authority: 7 U.S.C. 1736o–1.

§ 1599.1 Purpose and applicability.

(a) This part sets forth the general terms and conditions governing the award of donated commodities and funds by the Foreign Agricultural Service (FAS) to recipients under the McGovern-Dole International Food for Education and Child Nutrition Program (McGovern-Dole Program). Under the McGovern-Dole Program, recipients use the donated commodities, proceeds from any sale of such commodities, FAS-provided funds, and program income to implement a project in a foreign country pursuant to an agreement with FAS.

(b)(1) The Office of Management and Budget (OMB) issued guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2

CFR part 200. In 2 CFR 400.1, the United States Department of Agriculture (USDA) adopted OMB's guidance in subparts A through F of 2 CFR part 200, as supplemented by 2 CFR part 400, as USDA policies and procedures for uniform administrative requirements, cost principles, and audit requirements for Federal awards.

(2) The OMB guidance at 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to the McGovern-Dole Program, except as provided in paragraphs (e), (f) and (g) of this section.

(c) Except as otherwise provided in this part, other regulations that are generally applicable to grants and cooperative agreements of USDA, including the applicable regulations set forth in 2 CFR chapters I, II, and IV, also apply to the McGovern-Dole Program.

(d) In accordance with 7 U.S.C. 1736o–1(e), assistance under the McGovern-Dole Program may be provided to private voluntary organizations, cooperatives, intergovernmental organizations, governments of developing countries and their agencies, and other organizations.

(e) The OMB guidance at 2 CFR part 200, and the provisions of 2 CFR part 400 and of this part, do not apply to an award by FAS under the McGovern-Dole Program to a recipient that is a foreign public entity, as defined in 2 CFR 200.46, and, therefore, they do not apply to a foreign government or its agency or an intergovernmental organization.

(f)(1) The OMB guidance at subparts A through E of 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to all awards by FAS under the McGovern-Dole Program to all recipients that are private voluntary organizations, including a private voluntary organization that is a foreign organization, as defined in 2 CFR 200.47; cooperatives, including a cooperative that is a for-profit entity or a foreign organization; or other organizations, including organizations that are for-profit entities or foreign organizations, but not including intergovernmental organizations.

(2) The OMB guidance at subparts A through E of 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to all subawards to all subrecipients under this part, except in cases:

(i) Where the subrecipient is a foreign public entity; or

(ii) Where FAS determines that the application of these provisions to a subaward to a subrecipient that is a foreign organization would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government or would not be in the best interest of the United States.

(g)(1) The OMB guidance at subpart F of 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies only to awards by FAS to recipients that are private voluntary organizations, cooperatives, or other organizations, but that are not for-profit entities or foreign organizations.

(2) The OMB guidance at subpart F of 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to subawards to subrecipients under this part, except where the subrecipient is a for-profit entity, foreign public entity, or foreign organization.

(3) Audit requirements for recipients and subrecipients that are for-profit entities or foreign organizations are set forth in § 1599.18.

§ 1599.2 Definitions.

These are definitions for terms used in this part. The definitions in 2 CFR part 200, as supplemented in 2 CFR part 400, are also applicable to this part, with the exception that, if a term that is defined in this section is defined differently in 2 CFR part 200 or part 400, the definition in this section will apply to such term as used in this part.

Activity means a discrete undertaking within a project to be carried out by a recipient, directly or through a subrecipient, that is specified in an agreement and is intended to fulfill a specific objective of the agreement.

Agreement means a legally binding grant or cooperative agreement entered into between FAS and a recipient to implement a project under the McGovern-Dole Program.

Commodities mean agricultural commodities, or products of agricultural commodities, that are produced in the United States.

Cooperative means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

Cost sharing or matching means the portion of project expenses, or necessary goods and services provided to carry out a project, not paid or acquired with Federal funds. The term may include cash or in-kind contributions provided by recipients, subrecipients, foreign public entities, foreign organizations, or private donors.

Disburse means to make a payment to liquidate an obligation.

Donated commodities means the commodities donated by FAS to a recipient under an agreement. The term may include donated commodities that are used to produce a further processed product for use under the agreement.

FAS means the Foreign Agricultural Service of the United States Department of Agriculture.

FAS-provided funds means U.S. dollars provided under an agreement to a recipient, or through a subagreement to a subrecipient, for expenses authorized in the agreement, such as expenses for the internal transportation, storage and handling of the donated commodities; expenses involved in the administration, monitoring, and evaluation of the activities under the agreement; and the costs of activities conducted in the target country that would enhance the effectiveness of the activities implemented under the McGovern-Dole Program.

McGovern-Dole Program means the McGovern-Dole International Food for Education and Child Nutrition Program.

Private voluntary organization means a not-for-profit, nongovernmental organization (in the case of a United States organization, an organization that is exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1986) that receives funds from private sources, voluntary contributions of money, staff time, or in-kind support from the public, and that is engaged in or is planning to engage in voluntary, charitable, or development assistance activities (other than religious activities).

Program income means interest earned on proceeds from the sale of donated commodities, as well as funds received by a recipient or subrecipient as a direct result of carrying out an approved activity under an agreement. The term includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under a Federal award, the sale of items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Program income does not include proceeds from the sale of donated commodities; FAS-provided funds or interest earned on such funds; or funds provided for cost sharing or matching contributions, refunds or rebates, credits, discounts, or interest earned on any of them.

Project means the totality of the activities to be carried out by a recipient, directly or through a subrecipient, to fulfill the objectives of an agreement.

Recipient means an entity that enters into an agreement with FAS and receives donated commodities and FAS-provided funds to carry out activities under the agreement. The term recipient does not include a subrecipient.

Sale proceeds means funds received by a recipient from the sale of donated commodities.

Subrecipient means an entity that enters into a subagreement with a recipient for the purpose of implementing in the target country activities described in an agreement. The term does not include an individual that is a beneficiary under the agreement.

Target country means the foreign country in which activities are implemented under an agreement.

USDA means the United States Department of Agriculture.

Voluntary committed cost sharing or matching contributions means cost sharing or matching contributions specifically pledged on a voluntary basis by an applicant or recipient, which become binding as part of an agreement. Voluntary committed cost sharing or matching contributions may be provided in the form of cash or in-kind contributions.

§ 1599.3 Eligibility and conflicts of interest.

(a) A private voluntary organization, a cooperative, or another organization that is not an intergovernmental organization is eligible to submit an application under this part to become a recipient under the McGovern-Dole Program. FAS will set forth specific eligibility information, including any factors or priorities that will affect the eligibility of an applicant or application for selection, in the full text of the applicable notice of funding opportunity posted on the U.S. Government Web site for grant opportunities.

(b) Applicants, recipients, and subrecipients must comply with policies established by FAS pursuant to 2 CFR 400.2(a), and with the requirements in 2 CFR 400.2(b), regarding conflicts of interest.

§ 1599.4 Application process.

(a) An applicant seeking to enter into an agreement with FAS must submit an application, in accordance with this section, that sets forth its proposal to carry out activities under the McGovern-Dole Program in a proposed target country(ies). An application must contain the items specified in paragraph (b) of this section and any other items required by the notice of funding opportunity and must be submitted electronically to FAS at the address set forth in the notice of funding opportunity.

(b) An applicant must include the following items in its application:

(1) A completed Form SF–424, which is a standard application for Federal assistance;

(2) An introduction and a strategic analysis, which includes an impact analysis, as specified in the notice of funding opportunity;

(3) A plan of operation that contains the elements specified in the notice of funding opportunity;

(4) A summary line item budget and a budget narrative that indicate:

(i) The amounts of any sale proceeds, FAS-provided funds, interest, program income, and voluntary committed cost sharing or matching contributions that the applicant proposes to use to fund:

(A) Administrative costs;

(B) Inland and internal transportation, storage and handling (ITSH) costs; and

(C) Activity costs;

(ii) Where applicable, how the applicant's indirect cost rate will be applied to each type of expense; and

(iii) The amount of funding that will be provided to each proposed subrecipient under the agreement;

(5) A project-level results framework that outlines the changes that the applicant expects to accomplish through the proposed project and is based on the McGovern-Dole Program-level results framework, as set forth in the notice of funding opportunity;

(6) Unless otherwise specified in the notice of funding opportunity, an evaluation plan that describes the proposed design, methodology, and time frame of the project's evaluation activities, and how the applicant intends to manage these activities, and that will include a baseline study, interim evaluation, final evaluation, and any applicable special studies; and

(7) Any additional required items set forth in the notice of funding opportunity.

(c) Each applicant (unless the applicant has an exception approved by FAS under 2 CFR 25.110(d)) is required to:

(1) Be registered in the System for Award Management (SAM) before submitting its application;

(2) Provide a valid unique entity identifier in its application; and

(3) Continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

§ 1599.5 Agreements.

(a) After FAS approves an application by an applicant, FAS will negotiate an agreement with the applicant. The agreement will set forth the obligations of FAS and the recipient.

(b) The agreement will specify the general information required in 2 CFR 200.210(a), as applicable.

(c) The agreement will incorporate general terms and conditions, pursuant to 2 CFR 200.210(b), as applicable.

(d) To the extent that this information is not already included in the agreement pursuant to paragraphs (b) and (c) of this section, the agreement will also include the following:

(1) The kind, quantity, and use of the donated commodities and an estimated commodity call forward schedule, with the month and year indicated for each expected commodity shipment;

(2) A plan of operation, which will include the following:

(i) The objectives to be accomplished under the project;

(ii) A detailed description of each activity to be implemented;

(iii) The target country(ies) and the areas of the target country(ies) in which the activities will be implemented;

(iv) The methods and criteria for selecting the beneficiaries of the activities;

(v) Any contributions for cost sharing or matching, including cash and non-cash contributions, that the recipient expects to receive from non-FAS sources that:

(A) Are critical to the implementation of the activities; or

(B) Enhance the implementation of the activities;

(vi) Any subrecipient that will be involved in the implementation of the activities, and the criteria for selecting a subrecipient that has not yet been identified;

(vii) Any other governmental or nongovernmental entities that will be involved in the implementation of the activities;

(viii) Any processing, packaging or repackaging of the donated commodities that will take place prior to their distribution, sale or barter by the recipient; and

(ix) Any additional provisions specified by FAS during the negotiation of the agreement;

(3) A budget, which will set forth the maximum amounts of sale proceeds, FAS-provided funds, interest, program income, and voluntary committed cost sharing or matching contributions that may be used for each line item, as well as other applicable budget requirements; and

(4) Performance goals for the agreement, including a list of results, with long-term benefits where applicable, to be achieved by the

activities and corresponding indicators, targets, and time frames.

(e) The agreement will also include specific terms and conditions, and certifications and representations, including the following:

(1) The agreement will prohibit the sale or transshipment of the donated commodities by the recipient to a country not specified in the agreement for as long as the recipient has title to such donated commodities;

(2) The recipient will assert that it has taken action to ensure that any donated commodities that will be distributed to beneficiaries will be imported and distributed free from all customs, duties, tolls, and taxes. The recipient must submit information to FAS to support this assertion;

(3) The recipient will assert that, to the best of its knowledge, the importation and distribution of the donated commodities in the target country will not result in a substantial disincentive to or interference with domestic production or marketing in that country. The recipient must submit information to FAS to support this assertion;

(4) The recipient will assert that, to the best of its knowledge, any sale or barter of the donated commodities will not displace or interfere with any sales of like commodities that may otherwise be made within the target country. The recipient must submit information to FAS to support this assertion; and

(5) The recipient will assert that adequate transportation and storage facilities will be available in the target country to prevent spoilage or waste of the donated commodities. The recipient must submit information to FAS to support this assertion.

(f) FAS may enter into a multicountry agreement in which donated commodities are delivered to one country and activities are carried out in another.

(g) FAS may provide donated commodities and FAS-provided funds under a multiyear agreement contingent upon the availability of commodities and funds.

§ 1599.6 Payments.

(a) If a recipient arranges for transportation in accordance with § 1599.7(b)(2), FAS will, as specified in the agreement, pay the costs of such transportation to the ocean carrier or to the recipient. The recipient must, as specified in the agreement, submit to FAS, arrange to be submitted to FAS, or maintain on file and make available to FAS, the following documents:

(1) The original, or a true copy, of each on board bill of lading indicating the freight rate and signed by the originating ocean carrier;

(2) For all non-containerized cargoes:

(i) A signed copy of the Federal Grain Inspection Service (FGIS) Official Stowage Examination Certificate;

(ii) A signed copy of the National Cargo Bureau Certificate of Readiness; and

(iii) A signed copy of the Certificate of Loading issued by the National Cargo Bureau or a similar qualified independent surveyor;

(3) For all containerized cargoes, a copy of the FGIS Container Condition Inspection Certificate;

(4) A signed copy of the U.S. Food Aid Booking Note or charter party covering ocean transportation of the cargo;

(5) In the case of charter shipments, a signed notice of arrival at the first discharge port, unless FAS has determined that circumstances that could not have been reasonably anticipated or controlled (force majeure) have prevented the ocean carrier's arrival at the first port of discharge; and

(6) A request for payment of freight, survey costs other than at load port, and other expenses approved by FAS.

(b) If the agreement specifies that some or all of the documents listed in paragraph (a) of this section will be submitted to FAS, then FAS will not render payment for transportation services until it has received all of the specified documents.

(c) If a recipient arranges for transportation in accordance with § 1599.7(b)(2), and the recipient uses a freight forwarder, the recipient must ensure that the freight forwarder is registered in the SAM and require the freight forwarder to submit the documents specified in paragraph (a) of this section. The recipient will ensure that the total commission or fees paid to intermediaries in the transportation procurement process will not exceed two and a half percent of the total transportation costs.

(d) In no case will FAS provide payment to a recipient for demurrage costs or pay demurrage to any other entity.

(e) If FAS has agreed to be responsible for the costs of transporting, storing, and distributing the donated commodities from the designated discharge port or point of entry, and if the recipient will bear or has borne any of these costs, in accordance with the agreement, FAS will either provide an advance payment or a reimbursement to the recipient in the amount of such costs, in the manner set forth in the agreement.

(f) If the agreement authorizes the payment of FAS-provided funds, FAS will generally provide the funds to the recipient on an advance payment basis, in accordance with 2 CFR 200.305(b). In addition, the following procedures will apply to advance payments:

(1) A recipient may request advance payments of FAS-provided funds, up to the total amount specified in the agreement. When making an advance payment request, a recipient must provide, for each agreement for which it is requesting an advance, total expenditures to date; an estimate of expenses to be covered by the advance; total advances previously requested, if any; the amount of cash on hand from the preceding advance; and, if necessary, a request to roll over any unused funds from the preceding advance to the current request period. The advance payment request must take into account any program income earned since the preceding advance.

(2) Whenever possible, a recipient should consolidate advance payment requests to cover anticipated cash needs for all food assistance program awards made by FAS to the recipient. A recipient may request advance payments with no minimum time required between requests.

(3) A recipient must minimize the amount of time that elapses between the transfer of funds by FAS and the disbursement of funds by the recipient. A recipient must fully disburse funds from the preceding advance before it submits a new advance request for the same agreement, with the exception that the recipient may request to retain the balance of any funds that have not been disbursed and roll it over into a new advance request if the new advance request is made within 90 days after the preceding advance was made.

(4) FAS will review all requests to roll over funds from the preceding advance that have not been disbursed and make a decision based on the merits of the request. FAS will consider factors such as the amount of funding that a recipient is requesting to roll over, the length of time that the recipient has been in possession of the funds, any unforeseen or extenuating circumstances, the recipient's history of performance, and findings from recent financial audits or compliance reviews.

(5) FAS will not approve any request for an advance or rollover of funds if the most recent financial report, as specified in the agreement, is past due, or if any required report, as specified in any open agreement between the recipient and FAS or the Commodity Credit Corporation (CCC), is more than three months in arrears.

(6)(i) A recipient must return to FAS any funds advanced by FAS that have not been disbursed as of the 91st day after the advance was made; provided, however, that paragraphs (f)(6)(ii) and (iii) of this section will apply if the recipient submits a request to FAS before that date to roll over the funds into a new advance.

(ii) If a recipient submits a request to roll over funds into a new advance, and FAS approves the rollover of funds, such funds will be considered to have been advanced on the date that the recipient receives the approval notice from FAS, for the purposes of complying with the requirement in paragraph (f)(6)(i) of this section.

(iii) If a recipient submits a request to roll over funds into a new advance, and FAS does not approve the rollover of some or all of the funds, such funds must be returned to FAS.

(iv) If a recipient must return funds to FAS in accordance with paragraph (e)(6) of this section, the recipient must return the funds by the later of five business days after the 91st day after the funds were advanced, or five business days after the date on which the recipient receives notice from FAS that it has denied the recipient's request to roll over the funds; provided, however, that FAS may specify a different date for the return of funds in a written communication to the recipient.

(7) Except as may otherwise be provided in the agreement, a recipient must deposit and maintain in an insured bank account located in the United States all funds advanced by FAS. The account must be interest-bearing, unless one of the exceptions in 2 CFR 200.305(b)(8) applies or FAS determines that this requirement would constitute an undue burden. A recipient will not be required to maintain a separate bank account for advance payments of FAS-provided funds. However, a recipient must be able to separately account for the receipt, obligation, and expenditure of funds under each agreement.

(8) A recipient may retain, for administrative expenses, up to $500 per Federal fiscal year of any interest earned on funds advanced under an agreement. The recipient must remit to the U.S. Department of Health and Human Services, Payment Management System, any additional interest earned during a Federal fiscal year on such funds, in accordance with the procedures in 2 CFR 200.305(b)(9).

(g) If a recipient is required to pay funds to FAS in connection with an agreement, the recipient must make such payment in U.S. dollars, unless otherwise approved in advance by FAS.

§ 1599.7 Transportation of donated commodities.

(a) Shipments of donated commodities are subject to the requirements of 46 U.S.C. 55305, regarding carriage on U.S.-flag vessels.

(b) Transportation of donated commodities and other goods such as bags that may be provided by FAS under the McGovern-Dole Program will be arranged for under a specific agreement in the manner determined by FAS. Such transportation will be arranged for by:

(1) FAS in accordance with the Federal Acquisition Regulation (FAR) in chapter 1 of title 48, the Agriculture Acquisition Regulation (AGAR) in chapter 4 of title 48, and directives issued by the Director, Office of Procurement and Property Management, USDA; or

(2) The recipient, with payment by FAS, in the manner specified in the agreement.

(c) A recipient that is responsible for transportation under paragraph (b)(2) of this section must declare in the transportation contract the point at which the ocean carrier will take custody of donated commodities to be transported.

(d) A recipient that arranges for transportation in accordance with paragraph (b)(2) of this section may only use the services of a freight forwarder that is licensed by the Federal Maritime Commission and that would not have a conflict of interest in carrying out the freight forwarder duties. To assist FAS in determining whether there is a potential conflict of interest, the recipient must submit to FAS a certification indicating that the freight forwarder:

(1) Is not engaged in, and will not engage in, supplying commodities or furnishing ocean transportation or ocean transportation-related services for commodities provided under any McGovern-Dole Program agreement to which the recipient is a party; and

(2) Is not affiliated with the recipient and has not made arrangements to give or receive any payment, kickback, or illegal benefit in connection with its selection as an agent of the recipient.

§ 1599.8 Entry, handling, and labeling of donated commodities and notification requirements.

(a) A recipient must make all necessary arrangements for receiving the donated commodities in the target country, including obtaining appropriate approvals for entry and transit. The recipient must make arrangements with the target country government for all donated commodities that will be distributed to beneficiaries to be imported and distributed free from all customs duties, tolls, and taxes. A recipient is encouraged to make similar arrangements, where possible, with the government of a country where donated commodities to be sold or bartered are delivered.

(b) A recipient must, as provided in the agreement, arrange for transporting, storing, and distributing the donated commodities from the designated point and time where title to the donated commodities passes to the recipient.

(c) A recipient must store and maintain the donated commodities in good condition from the time of delivery at the port of entry or the point of receipt from the originating carrier until their distribution, sale or barter.

(d)(1) If a recipient arranges for the packaging or repackaging of donated commodities that are to be distributed, the recipient must ensure that the packaging:

(i) Is plainly labeled in the language of the target country;

(ii) Contains the name of the donated commodities;

(iii) Includes a statement indicating that the donated commodities are furnished by the United States Department of Agriculture; and

(iv) Includes a statement indicating that the donated commodities must not be sold, exchanged or bartered.

(2) If a recipient arranges for the processing and repackaging of donated commodities that are to be distributed, the recipient must ensure that the packaging:

(i) Is plainly labeled in the language of the target country;

(ii) Contains the name of the processed product;

(iii) Includes a statement indicating that the processed product was made with commodities furnished by the United States Department of Agriculture; and

(iv) Includes a statement indicating that the processed product must not be sold, exchanged or bartered.

(3) If a recipient distributes donated commodities that are not packaged, the recipient must display a sign at the distribution site that includes the name of the donated commodities, a statement indicating that the donated commodities are being furnished by the United States Department of Agriculture, and a statement indicating that the donated commodities must not be sold, exchanged, or bartered.

(e) A recipient must ensure that signs are displayed at all activity implementation and commodity distribution sites to inform beneficiaries that funding for the project was provided by the United States Department of Agriculture.

(f) A recipient must also ensure that all public communications relating to the project, the activities, or the donated commodities, whether made through print, broadcast, digital, or other media, include a statement acknowledging that funding was provided by the United States Department of Agriculture.

(g) FAS may waive compliance with one or more of the labeling and notification requirements in paragraphs (d), (e) and (f) of this section if a recipient demonstrates to FAS that the requirement presents a safety or security risk in the target country. If a recipient determines that compliance with a labeling or notification requirement poses an imminent threat of destruction of property, injury, or loss of life, the recipient must submit a waiver request to FAS as soon as possible. The recipient will not have to comply with such requirement during the period prior to the issuance of a waiver determination by FAS. A recipient may submit a written request for a waiver at any time after the agreement has been signed.

(h) In exceptional circumstances, FAS may, on its own initiative, waive one or more of the labeling and notification requirements in paragraphs (d), (e) and (f) of this section for programmatic reasons.

§ 1599.9 Damage to or loss of donated commodities.

(a) FAS will be responsible for the donated commodities prior to the transfer of title to the commodities to the recipient. The recipient will be responsible for the donated commodities following the transfer of title to the donated commodities to the recipient. The title will transfer as specified in the agreement.

(b) A recipient must inform FAS, in the manner and within the time period set forth in the agreement, of any damage to or loss of the donated commodities that occurs following the transfer of title to the donated commodities to the recipient. The recipient must take all steps necessary to protect its interests and the interests of FAS with respect to any damage to or loss of the donated commodities that occurs after title has been transferred to the recipient.

(c) A recipient will be responsible for arranging for an independent cargo surveyor to inspect the donated commodities upon discharge from the ocean carrier and prepare a survey or outturn report. The report must show the quantity and condition of the donated commodities discharged from the ocean carrier and must indicate the most likely cause of any damage noted in the report. The report must also indicate the time and place when the survey took place. All discharge surveys must be conducted contemporaneously with the discharge of the ocean carrier, unless FAS determines that failure to do so was justified under the circumstances. For donated commodities shipped on a through bill of lading, the recipient must also obtain a delivery survey. All surveys obtained by the recipient must, to the extent practicable, be conducted jointly by the surveyor, the recipient, and the carrier, and the survey report must be signed by all three parties. The recipient must obtain a copy of each discharge or delivery survey report within 45 days after the completion of the survey. The recipient must make each such report available to FAS upon request, or in the manner specified in the agreement. FAS will reimburse the recipient for the reasonable costs of these services, as determined by FAS, in the manner specified in the agreement.

(d) If donated commodities are damaged or lost during the time that they are in the care of the ocean carrier:

(1) The recipient must ensure that any reports, narrative chronology, or other commentary prepared by the independent cargo surveyor, and any such documentation prepared by a port authority, stevedoring service, or customs official, or an official of the transit or target country government or the transportation company, are provided to FAS;

(2) The recipient must provide to FAS the names and addresses of any individuals known to be present at the time of discharge or unloading, or during the survey, who can verify the quantity of damaged or lost donated commodities;

(3) If the damage or loss occurred with respect to a bulk shipment on an ocean carrier, the recipient must ensure that the independent cargo surveyor:

(i) Observes the discharge of the cargo;

(ii) Reports on discharging methods, including scale type, calibrations, and any other factors that may affect the accuracy of scale weights, and, if scales are not used, states the reason therefor and describes the actual method used to determine weight;

(iii) Estimates the quantity of cargo, if any, lost during discharge through carrier negligence;

(iv) Advises on the quality of sweepings;

(v) Obtains copies of port or ocean carrier records, if possible, showing the quantity discharged; and

(vi) Notifies the recipient immediately if the surveyor has reason to believe that the correct quantity was not discharged or if additional services are necessary to protect the cargo; and

(4) If the damage or loss occurred with respect to a container shipment on an ocean carrier, the recipient must ensure that the independent cargo surveyor lists the container numbers and seal numbers shown on the containers, indicates whether the seals were intact at the time the containers were opened, and notes whether the containers were in any way damaged.

(e) If a recipient has title to the donated commodities, and donated commodities valued in excess of $5,000 are damaged at any time prior to their distribution or sale under the agreement, regardless of the party at fault, the recipient must immediately arrange for an inspection by a public health official or other competent authority approved by FAS and provide to FAS a certification by such public health official or other competent authority regarding the exact quantity and condition of the damaged donated commodities. The value of damaged donated commodities must be determined on the basis of the commodity acquisition, transportation, and related costs incurred by FAS with respect to such commodities, as well as such costs incurred by the recipient and paid by FAS. The recipient must inform FAS of the results of the inspection and indicate whether the damaged donated commodities are:

(1) Fit for the use authorized in the agreement and, if so, whether there has been a diminution in quality; or

(2) Unfit for the use authorized in the agreement.

(f)(1) If a recipient has title to the donated commodities, the recipient must arrange for the recovery of that portion of the donated commodities designated as fit for the use authorized in the agreement. The recipient must dispose of donated commodities that are unfit for such use in the following order of priority:

(i) Sale for the most appropriate use, *i.e.*, animal feed, fertilizer, industrial use, or another use approved by FAS, at the highest obtainable price;

(ii) Donation to a governmental or charitable organization for use as animal feed or another non-food use; or

(iii) Destruction of the donated commodities if they are unfit for any use, in such manner as to prevent their use for any purpose.

(2) A recipient must arrange for all U.S. Government markings to be obliterated or removed before the donated commodities are transferred by

sale or donation under paragraph (f)(1) of this section.

(g) A recipient may retain any proceeds generated by the disposal of the donated commodities in accordance with paragraph (f)(1) of this section and must use the retained proceeds for expenses related to the disposal of the donated commodities and for activities specified in the agreement.

(h) A recipient must notify FAS immediately and provide detailed information about the actions taken in accordance with paragraph (f) of this section, including the quantities, values, and dispositions of donated commodities determined to be unfit.

§ 1599.10 Claims for damage to or loss of donated commodities.

(a) FAS will be responsible for claims arising out of damage to or loss of a quantity of the donated commodities prior to the transfer of title to the donated commodities to the recipient. The recipient will be responsible for claims arising out of damage to or loss of a quantity of the donated commodities after the transfer of title to the donated commodities.

(b) If a recipient has title to donated commodities that have been damaged or lost, and the value of the damaged or lost donated commodities is estimated to be in excess of $20,000, the recipient must:

(1) Notify FAS immediately and provide detailed information about the circumstances surrounding such damage or loss, the quantity of damaged or lost donated commodities, and the value of the damage or loss;

(2) Promptly upon discovery of the damage or loss, initiate a claim arising out of such damage or loss, including, if appropriate, initiating an action to collect pursuant to a commercial insurance contract;

(3) Take all necessary action to pursue the claim diligently and within any applicable periods of limitations; and

(4) Provide to FAS copies of all documentation relating to the claim.

(c) If a recipient has title to donated commodities that have been damaged or lost, and the value of the damaged or lost donated commodities is estimated to be $20,000 or less, the recipient must notify FAS in accordance with the agreement and provide detailed information about the damage or loss in the next report required to be filed under § 1599.13(f)(1) or (2).

(d)(1) The value of a claim for lost donated commodities will be determined on the basis of the commodity acquisition, transportation, and related costs incurred by FAS with respect to such commodities, as well as such costs incurred by the recipient and paid by FAS.

(2) The value of a claim for damaged donated commodities will be determined on the basis of the commodity acquisition, transportation, and related costs incurred by FAS with respect to such commodities, as well as such costs incurred by the recipient and paid by FAS, less any funds generated if such commodities are sold in accordance with § 1599.9(f)(1).

(e) If FAS determines that a recipient ~~has~~ not initiated a claim or is not exercising due diligence in the pursuit of a claim, FAS may require the recipient to assign its rights to initiate or pursue the claim to FAS. Failure by the recipient to initiate a claim or exercise due diligence in the pursuit of a claim will be considered by FAS during the review of applications for subsequent food assistance awards.

(f)(1) A recipient may retain any funds obtained as a result of a claims collection action initiated by it in accordance with this section, or recovered pursuant to any insurance policy or other similar form of indemnification, but such funds must be expended in accordance with the agreement or for other purposes approved in advance by FAS.

(2) FAS will retain any funds obtained as a result of a claims collection action initiated by it under this section; provided, however, that if the recipient paid for the transportation of the donated commodities or a portion thereof, FAS will use a portion of such funds to reimburse the recipient for such expense on a prorated basis.

§ 1599.11 Use of donated commodities, sale proceeds, FAS-provided funds, and program income.

(a) A recipient must use the donated commodities, any sale proceeds, FAS-provided funds, interest, and program income in accordance with the agreement.

(b) A recipient must not use donated commodities, sale proceeds, FAS-provided funds, interest, or program income for any activity or any expense incurred by the recipient or a subrecipient prior to the start date of the period of performance of the agreement or after the agreement is suspended or terminated, without the prior written approval of FAS.

(c) A recipient must not permit the distribution, handling, or allocation of donated commodities on the basis of political affiliation, geographic location, or the ethnic, tribal or religious identity or affiliation of the potential consumers or beneficiaries.

(d) A recipient must not permit the distribution, handling, or allocation of donated commodities by the military forces of any government or insurgent group without the specific authorization of FAS.

(e) A recipient must not use sale proceeds, FAS-provided funds, interest, or program income to acquire goods and services, either directly or indirectly through another party, in a manner that violates country-specific economic sanction programs, as specified in the agreement.

(f) A recipient may sell or barter donated commodities only if such sale or barter is provided for in the agreement or the recipient is disposing of damaged donated commodities as specified in § 1599.9(f). The recipient must sell donated commodities at a reasonable market price. The recipient must obtain approval of its proposed sale price from FAS before selling donated commodities. The recipient must use any sale proceeds, interest, program income, or goods or services derived from the sale or barter of the donated commodities only as provided in the agreement.

(g) A recipient must deposit and maintain all sale proceeds, FAS-provided funds, and program income in a bank account until they are used for a purpose authorized under the agreement or the FAS-provided funds are returned to FAS in accordance with § 1599.6(f)(6). The account must be insured unless it is in a country where insurance is unavailable. The account must be interest-bearing, unless one of the exceptions in 2 CFR 200.305(b)(8) applies or FAS determines that this requirement would constitute an undue burden. The recipient must comply with the requirements in § 1599.6(f)(7) with regard to the deposit of advance payments by FAS.

(h)(1) Except as provided in paragraph (h)(2) of this section, a recipient may make adjustments within the agreement budget between direct cost line items without further approval, provided that the total amount of adjustments does not exceed ten percent of the Grand Total Costs, excluding any voluntary committed cost sharing or matching contributions, in the agreement budget. Adjustments beyond these limits require the prior approval of FAS.

(2) A recipient must not transfer any funds budgeted for participant support costs, as defined in 2 CFR 200.75, to other categories of expense without the prior approval of FAS.

(i) A recipient may use sale proceeds, FAS-provided funds, or program income to purchase real or personal property only if local law permits the recipient to retain title to such property. However, a recipient must not use sale proceeds, FAS-provided funds, or program income to pay for the acquisition, development, construction, alteration or upgrade of real property that is:

(1) Owned or managed by a church or other organization engaged exclusively in religious pursuits; or

(2) Used in whole or in part for sectarian purposes, except that a recipient may use sale proceeds, FAS-provided funds, or program income to pay for repairs to or rehabilitation of a structure located on such real property to the extent necessary to avoid spoilage or loss of donated commodities, but only if the structure is not used in whole or in part for any religious or sectarian purposes while the donated commodities are stored in it. If the use of sale proceeds, FAS-provided funds, or program income to pay for repairs to or rehabilitation of such a structure is not specifically provided for in the agreement, the recipient must not use the sale proceeds, FAS-provided funds, or program income for this purpose until it receives written approval from FAS.

(j) A recipient must comply with 2 CFR 200.321 when procuring goods and services in the United States. When procuring goods and services outside of the United States, a recipient should endeavor to comply with 2 CFR 200.321 where practicable.

(k) A recipient must enter into a written contract with each provider of goods, services, or construction work that is valued at or above the Simplified Acquisition Threshold. Each such contract must require the provider to maintain adequate records to account for all donated commodities, funds, or both furnished to the provider by the recipient and to comply with any other applicable requirements that may be specified by FAS in the agreement. The recipient must submit a copy of the signed contracts to FAS upon request.

§ 1599.12 Monitoring and evaluation requirements.

(a) A recipient will be responsible for designing a performance monitoring plan for the project, obtaining written approval of the plan from FAS before putting it into effect, and managing and implementing the plan, unless otherwise specified in the agreement.

(b) A recipient must establish baseline values, annual targets, and life of activity targets for each performance indicator included in the recipient's approved performance monitoring plan, unless otherwise specified in the agreement.

(c) A recipient must inform FAS, in the manner and within the time period specified in the agreement, of any problems, delays, or adverse conditions that materially impair the recipient's ability to meet the objectives of the agreement. This notification must include a statement of any corrective actions taken or contemplated by the recipient, and any additional assistance requested from FAS to resolve the situation.

(d) A recipient will be responsible for designing an evaluation plan for the project, obtaining written approval of the plan from FAS before putting it into effect, and arranging for an independent third party to implement the evaluation, unless otherwise specified in the agreement. This evaluation plan will detail the evaluation purpose and scope, key evaluation questions, evaluation methodology, time frame, evaluation management, and cost. This plan will generally be based upon the evaluation plan that the recipient submitted to FAS as part of its application, pursuant to § 1599.4(b)(6), unless the notice of funding opportunity specified that an evaluation plan was not required to be included in the application. The recipient must ensure that the evaluation plan:

(1) Is designed using the most rigorous methodology that is appropriate and feasible, taking into account available resources, strategy, current knowledge and evaluation practices in the sector, and the implementing environment;

(2) Is designed to inform management, activity implementation, and strategic decision-making;

(3) Utilizes analytical approaches and methodologies, based on the questions to be addressed, project design, budgetary resources available, and level of rigor and evidence required, which may be implemented through methods such as case studies, surveys, quasi-experimental designs, randomized field experiments, cost-effectiveness analyses, implementation reviews, or a combination of methods;

(4) Adheres to generally accepted evaluation standards and principles;

(5) Uses participatory approaches that seek to include the perspectives of diverse parties and all relevant stakeholders; and

(6) Where possible, utilizes local consultants and seeks to build local capacity in evaluation.

(e)(1) Unless otherwise provided in the agreement, a recipient must arrange for evaluations of the project to be conducted by an independent third party that:

(i) Is financially and legally separate from the recipient's organization; and

(ii) Has staff with demonstrated methodological, cultural and language competencies, and specialized experience in conducting evaluations of international development programs involving agriculture, trade, education, and nutrition, provided that FAS may determine that, for a particular agreement, the staff of the independent third party evaluator is not required to have specialized experience in conducting evaluations of programs involving one or more of these four areas.

(2) A recipient must provide a written certification to FAS that there is no real or apparent conflict of interest on the part of any recipient staff member or third party entity designated or hired to play a substantive role in the evaluation of activities under the agreement.

(f) FAS will be considered a key stakeholder in all evaluations conducted as part of the agreement.

(g)(1) A recipient is responsible for establishing the required financial and human capital resources for monitoring and evaluation of activities under the agreement. The recipient must maintain a separate budget for monitoring and evaluation, with separate budget line items for dedicated recipient monitoring and evaluation staff and independent third-party evaluation contracts.

(2) Personnel at a recipient's headquarters offices and field offices with specialized expertise and experience in monitoring and evaluation may be used by the recipient for dedicated monitoring and evaluation. Unless otherwise specified in the agreement or approved evaluation plan, all evaluations must be managed by the recipient's evaluation experts outside of the recipient's line management for the activities.

(h) FAS may independently conduct or commission an evaluation of a single agreement or an evaluation that includes multiple agreements. A recipient must cooperate, and comply with any demands for information or materials made in connection, with any evaluation conducted or commissioned by FAS. Such evaluations may be conducted by FAS internally or by an FAS-hired external evaluation contractor.

§ 1599.13 Reporting and record keeping requirements.

(a) A recipient must comply with the performance and financial monitoring and reporting requirements in the agreement and 2 CFR 200.327 through 200.329.

(b) A recipient must submit financial reports to FAS, by the dates and for the reporting periods specified in the agreement. Such reports must provide an accurate accounting of sale proceeds, FAS-provided funds, interest, program income, and voluntary committed cost sharing or matching contributions.

(c)(1) A recipient must submit performance reports to FAS, by the dates and for the reporting periods specified in the agreement. These reports must include the information required in 2 CFR 200.328(b)(2), including additional pertinent information regarding the recipient's progress, measured against established indicators, baselines, and targets, towards achieving the expected results specified in the agreement. This reporting must include, for each performance indicator, a comparison of actual accomplishments with the baseline and the targets established for the period. When actual accomplishments deviate significantly from targeted goals, the recipient must provide an explanation in the report.

(2) A recipient must ensure the accuracy and reliability of the performance data submitted to FAS in performance reports. At any time during the period of performance of the agreement, FAS may review the recipient's performance data to determine whether it is accurate and reliable. The recipient must comply with all requests made by FAS or an entity designated by FAS in relation to such reviews.

(d) Baseline, interim, and final evaluation reports are required for all agreements, unless otherwise specified in the agreement. The reports must be submitted in accordance with the timeline in the FAS-approved evaluation plan. Evaluation reports submitted to FAS may be made public in an effort to increase accountability and transparency and share lessons learned and best practices.

(e) A recipient must, within 30 days after export of all or a portion of the donated commodities, submit evidence of such export to FAS, in the manner set forth in the agreement. The evidence may be submitted through an electronic media approved by FAS or by providing the carrier's on board bill of lading. The evidence of export must show the kind and quantity of commodities exported, the date of export, and the country where the commodities will be delivered. The date of export is the date that the ocean carrier carrying the donated commodities sails from the final U.S. load port.

(f)(1) A recipient must submit reports to FAS, using a form prescribed by FAS, covering the receipt, handling, and disposition of the donated commodities. Such reports must be submitted to FAS, by the dates and for the reporting periods specified in the agreement, until all of the donated commodities have been distributed, sold or bartered and such disposition has been reported to FAS.

(2) If the agreement authorizes the sale or barter of donated commodities, the recipient must submit to FAS, using a form prescribed by FAS, reports covering the receipt and use of the sale proceeds when the donated commodities were sold, the goods and services derived from barter when the donated commodities were bartered, and program income. Such reports must be submitted to FAS, by the dates and for the reporting periods specified in the agreement, until all of the sale proceeds and program income have been disbursed and reported to FAS. When reporting financial information, the recipient must include the amounts in U.S. dollars and the exchange rate if proceeds are held in local currency.

(g) If requested by FAS, a recipient must provide to FAS additional information or reports relating to the agreement.

(h) If a recipient requires an extension of a reporting deadline, it must ensure that FAS receives an extension request at least five business days prior to the reporting deadline. FAS may decline to consider a request for an extension that it receives after this time period. FAS will consider requests for reporting deadline extensions on a case by case basis and make a decision based on the merits of each request. FAS will consider factors such as unforeseen or extenuating circumstances and past performance history when evaluating requests for extensions.

(i) A recipient must retain records and permit access to records in accordance with the requirements of 2 CFR 200.333 through 200.337. The date of submission of the final expenditure report, as referenced in 2 CFR 200.333, will be the final date of submission of the reports required by paragraphs (f)(1) and (2) of this section, as prescribed by FAS. The recipient must retain copies of and make available to FAS all sales receipts, contracts, or other documents related to the sale or barter of donated commodities and any goods or services derived from such barter, as well as records of dispatch received from ocean carriers.

§ 1599.14 Subrecipients.

(a) A recipient may utilize the services of a subrecipient to implement activities under the agreement if this is provided for in the agreement. The subrecipient may receive donated commodities, sale proceeds, FAS-provided funds, program income, or other resources from the recipient for this purpose. The recipient must enter into a written subagreement with the subrecipient and comply with the applicable provisions of 2 CFR 200.331. The recipient must provide a copy of such subagreement to FAS, in the manner set forth in the agreement, prior to the transfer of any donated commodities, sale proceeds, FAS-provided funds, or program income to the subrecipient.

(b) A recipient must include the following requirements in a subagreement:

(1) The subrecipient is required to comply with the applicable provisions of this part and 2 CFR parts 200 and 400. The applicable provisions are those that relate specifically to subrecipients, as well as those relating to non-Federal entities that impose requirements that would be reasonable to pass through to a subrecipient because they directly concern the implementation by the subrecipient of one or more activities under the agreement. If there is a question about whether a particular provision is applicable, FAS will make the determination.

(2) The subrecipient is prohibited from using sale proceeds, FAS-provided funds, interest, or program income to acquire goods and services, either directly or indirectly through another party, in a manner that violates country-specific economic sanction programs, as specified in the agreement.

(3) The subrecipient must pay to the recipient the value of any donated commodities, sale proceeds, FAS-provided funds, interest, or program income that are not used in accordance with the subagreement, or that are lost, damaged, or misused as a result of the subrecipient's failure to exercise reasonable care.

(4) In accordance with § 1599.18 and 2 CFR 200.501(h), a description of the applicable compliance requirements and the subrecipient's compliance responsibility. Methods to ensure compliance may include pre-award audits, monitoring during the agreement, and post-award audits.

(c) A recipient must monitor the actions of a subrecipient as necessary to ensure that donated commodities, sale proceeds, FAS-provided funds, and program income provided to the subrecipient are used for authorized purposes in compliance with applicable U.S. Federal laws and regulations and the subagreement and that performance indicator targets are achieved for both activities and results under the agreement.

§ 1599.15 Noncompliance with an agreement.

If a recipient fails to comply with a Federal statute or regulation or the terms and conditions of the agreement, and FAS determines that the noncompliance cannot be remedied by imposing additional conditions, FAS may take one or more of the actions set forth in 2 CFR 200.338, including initiating a claim as a remedy. FAS may also initiate a claim against a recipient if the donated commodities are damaged or lost, or the sale proceeds, goods received through barter, FAS-provided funds, interest, or program income are misused or lost, due to an action or omission of the recipient.

§ 1599.16 Suspension and termination of agreements.

(a) An agreement or subagreement may be suspended or terminated in accordance with 2 CFR 200.338 or 200.339. FAS may suspend or terminate an agreement if it determines that:

(1) One of the bases in 2 CFR 200.338 or 200.339 for termination or suspension by FAS has been satisfied;

(2) The continuation of the assistance provided under the agreement is no longer necessary or desirable; or

(3) Storage facilities are inadequate to prevent spoilage or waste, or distribution of the donated commodities will result in substantial disincentive to, or interference with, domestic production or marketing in the target country.

(b) If an agreement is terminated, the recipient:

(1) Is responsible for the security and integrity of any undistributed donated commodities and must dispose of such commodities only as agreed to by FAS;

(2) Is responsible for any sale proceeds, FAS-provided funds, interest, or program income that have not been disbursed and must use or return them only as agreed to by FAS; and

(3) Must comply with the closeout and post-closeout provisions specified in the agreement and 2 CFR 200.343 and 200.344.

§ 1599.17 Opportunities to object and appeals.

(a) FAS will provide an opportunity to a recipient to object to, and provide information and documentation challenging, any action taken by FAS pursuant to § 1599.15. FAS will comply with any requirements for hearings, appeals, or other administrative proceedings to which the recipient is entitled under any other statute or regulation applicable to the action involved. For example, if the action taken by FAS pursuant to § 1599.15 is to initiate suspension or debarment proceedings as authorized under 2 CFR parts 180 and 417, then the requirements in 2 CFR parts 180 and 417 will apply instead of the requirements in this section. In the absence of other applicable statutory or regulatory requirements, the requirements set forth in this section will apply.

(b) The recipient must submit its objection in writing, along with any documentation, to the FAS official specified in the agreement within 30 days after the date of FAS's written notification to the recipient of the FAS action being challenged. This official will endeavor to notify the recipient of his or her determination within 60 days after the date that FAS received the recipient's written objection.

(c) The recipient may appeal the determination of the official to the Administrator, FAS. An appeal must be in writing and be submitted to the Office of the Administrator within 30 days after the date of the initial determination by the FAS official. The recipient may submit additional documentation with its appeal.

(d) The Administrator will base the determination on appeal upon information contained in the administrative record and will endeavor to make a determination within 60 days after the date that FAS received the appeal. The determination of the Administrator will be the final determination of FAS. The recipient must exhaust all administrative remedies contained in this section before pursuing judicial review of a determination by the Administrator.

§ 1599.18 Audit requirements.

(a) Subpart F, Audit Requirements, of 2 CFR part 200 applies to recipients and subrecipients under this part other than those that are for-profit entities, foreign public entities, or foreign organizations.

(b) A recipient or subrecipient that is a for-profit entity or a foreign organization, and that expends, during its fiscal year, a total of at least the audit requirement threshold in 2 CFR 200.501 in Federal awards, is required to obtain an audit. Such a recipient or subrecipient has the following two options to satisfy this requirement:

(1)(i) A financial audit of the agreement or subagreement, in accordance with the Government Auditing Standards issued by the United States Government Accountability Office (GAO), if the recipient or subrecipient expends Federal awards under only one FAS program during such fiscal year; or

(ii) A financial audit of all Federal awards from FAS, in accordance with GAO's Government Auditing Standards, if the recipient or subrecipient expends Federal awards under multiple FAS programs during such fiscal year; or

(2) An audit that meets the requirements contained in subpart F of 2 CFR part 200.

(c) A recipient or subrecipient that is a for-profit entity or a foreign organization, and that expends, during its fiscal year, a total that is less than the audit requirement threshold in 2 CFR 200.501 in Federal awards, is exempt from requirements under this section for an audit for that year, except as provided in paragraphs (d) and (f) of this section, but it must make records available for review by appropriate officials of Federal agencies.

(d) FAS may require an annual financial audit of an agreement or subagreement when the audit requirement threshold in 2 CFR 200.501 is not met. In that case, FAS must provide funds under the agreement for this purpose, and the recipient or subrecipient, as applicable, must arrange for such audit and submit it to FAS.

(e) When a recipient or subrecipient that is a for-profit entity or a foreign organization is required to obtain a financial audit under this section, it must provide a copy of the audit to FAS within 60 days after the end of its fiscal year.

(f) FAS, the USDA Office of Inspector General, or GAO may conduct or arrange for additional audits of any recipients or subrecipients, including for-profit entities and foreign organizations. Recipients and subrecipients must promptly comply with all requests related to such audits. If FAS conducts or arranges for an additional audit, such as an audit with respect to a particular agreement, FAS will fund the full cost of such an audit, in accordance with 2 CFR 200.503(d).

§ 1599.19 Paperwork Reduction Act.

The information collection requirements contained in this regulation have been approved by OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and have been assigned OMB control number 0551–0035. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Dated: July 29, 2016.

Suzanne Palmieri,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 2016–21347 Filed 9–9–16; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2016–0002; T.D. TTB–143; Ref: Notice No. 157]

RIN 1513–AC23

Establishment of the Willcox Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 526,000-acre "Willcox" viticultural area in portions of Graham and Cochise Counties in southeastern Arizona. The "Willcox" viticultural area is not located within any other viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective October 12, 2016.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Willcox Petition

TTB received a petition from Paul S. Hagar, the special projects manager of Dragoon Mountain Vineyard, on behalf of Dragoon Mountain Vineyard and other local winery and vineyard owners, proposing the establishment of the "Willcox" AVA. The proposed AVA contains approximately 526,000 acres, and there are 21 commercially-producing vineyards covering a total of approximately 454 acres distributed throughout the proposed AVA, along with 18 wineries. According to the petition, an additional 650 acres of vineyards are planned for the near future. The proposed Willcox AVA is not located within any established AVA. According to the petition, the distinguishing features of the proposed Willcox AVA are its geology, topography, soils, and climate.

The proposed AVA is in the Arizona geological province known as the "basin-and-range" province, which is characterized by high mountain ranges that are separated by valleys. The proposed Willcox AVA is located within a broad, shallow basin and is surrounded by higher mountain ranges including the Chiricahua, Dos Cabezas, Pinalenos, Dragoon, Little Dragoon, and Winchester Mountains. The underlying geology of the proposed AVA is comprised mainly of water-borne and wind-borne deposits, in contrast to the surrounding mountain ranges which are comprised of igneous rock and other volcanic materials. Over time, the geologic activity of the region has disrupted the flow of creeks, rivers, and drainage systems and has left the proposed AVA in a "closed basin." Because the basin is "closed," the aquifer beneath the proposed AVA is recharged only through rainfall, in contrast to the nearby "open basin" valleys which have year-round or seasonal creeks. Therefore, vineyard owners within the proposed AVA use drip irrigation to conserve water.

The topography within the proposed Willcox AVA is relatively uniform and very flat, with slope angles ranging from 0 to 1.5 percent. The very shallow slopes, combined with the lack of creeks or streams, reduces the risk of erosion within the proposed AVA. Because the proposed AVA is surrounded by higher, steeper mountains, cool nighttime air flowing down from those mountains settles in the vineyards within the proposed AVA. In the early spring, this cool air can increase the risk of frost damage to new shoots and buds, so vineyard owners often install large fans to mix the warmer ambient air with the cooler descending air streams and prevent the cool air from pooling.

The most prevalent soils within the proposed Willcox AVA are Tubac, Sonoita, Forrest, and Frye soils, which are predominately loams comprised of sand, silt, and clay in relatively even proportions. Loamy soils retain adequate amounts of moisture to hydrate vineyards while allowing excess water to percolate quickly through to the aquifer. Loamy soils are also generally high in nutrients and, therefore, are not typically preferred for vineyards because the nutrient levels can promote overly vigorous vine and leaf growth. However, the petition states that the stress placed on vines by the hot, dry climate of the proposed AVA keeps vine and leaf growth in check. The soils of the surrounding regions are also mostly loams. However, the four major soils of the proposed AVA do not make up as large a percentage of the surrounding area, except within the Chiricahua Mountains to the southeast of the proposed AVA, where Tubac soils are more prevalent than within the proposed Willcox AVA.

Southeast Arizona, including the region of the proposed Willcox AVA, is generally considered to have an arid climate. The most significant rainfall occurs during the monsoon season, in July and August, when humid air flows into the region from both the Gulf of Mexico and the Gulf of California. As the humid air rises over the mountains that surround the proposed AVA, the air cools and eventually reaches the point where it releases the moisture in the form of rain. As the storms move beyond the mountains and foothills, they begin to weaken and dissipate. Therefore, growing season precipitation amounts are typically lower in the proposed Willcox AVA than in the surrounding mountains.

In the region of the proposed Willcox AVA, elevation also plays a role in climate. Regions at higher elevations typically have lower growing season temperatures than regions at lower elevations. The proposed AVA has higher growing season temperatures than the higher surrounding mountains, including the Chiricahua Mountains to the southeast. Large valleys lie beyond the mountain ranges that surround the proposed AVA. These valleys are at lower elevations than the proposed Willcox AVA and, therefore, have higher growing season temperatures.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 157 in the **Federal Register** on January 21, 2016 (81 FR 3356), proposing to establish the Willcox AVA. In that document, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The proposed rule also compared the distinguishing features of the proposed AVA to the features of the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 157.

In Notice No. 157, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on March 21, 2016. TTB received three comments in response to Notice No. 157. Two of the three comments were from local residents who supported the proposed AVA. One of the supporting comments (comment 3) was submitted by a representative of Cellar 433 winery and its Dragoon Mountain Vineyard and included three letters of support for the proposed AVA from other wine industry members within the proposed AVA. The three letters were dated in 2013 and were provided at that time to the Willcox AVA petitioner, who was also an employee of Dragoon Mountain Vineyards. However the letters were not included with the proposed Willcox AVA petition, nor had they been received by TTB prior to the opening of the comment period. The three letters support the proposed Willcox AVA and also mention support for a "Chiricahua Foothills" AVA. TTB notes that the proposed Willcox AVA petition was submitted simultaneously with a petition to establish an adjacent "Chiricahua Foothills" AVA, but that petition was not accepted as perfected by TTB, and the comments regarding the petitioned-for Chiricahua Foothills are not being considered as part of this rulemaking.

TTB received one comment from a local resident (comment 2) opposing the establishment of an AVA "in the foothills of the Chiricahua Mountains * * *." The commenter states his belief that vineyards "fragment the open spaces that ranches provide, disrupt the watershed and block wildlife patterns." The commenter also states his belief that the vineyards in the Willcox region do not provide economic benefit to the community because most of the vineyards "are not sustainable economically" and employ seasonal workers from outside the area.

TTB's purpose in establishing an AVA is to allow winemakers to more accurately describe the origins of the grapes used to make their wine, so that consumers can have more information about the wines they may purchase. Economic benefits and other impacts derived from the use of an AVA name are the result of a proprietor's efforts and consumer acceptance of wines from that area.

Section 4.25 of the TTB regulations defines an AVA as a delimited grape-growing region having distinguishing features and a name and delineated boundary as described in part 9 of the regulations. Section 9.12 of the TTB regulations requires an AVA petition to provide sufficient name and geographical and/or climatic information, data, and evidence to enable TTB to determine whether the features of the proposed AVA are distinguishable from the surrounding regions and have an effect on viticulture. TTB determined that the petition to establish the proposed Willcox AVA contained sufficient evidence to merit notice and comment. Furthermore, TTB has determined that the opposing comment did not contain any evidence to contradict the name or distinguishing features data contained in the petition. Therefore, TTB does not believe that there is sufficient evidence to warrant the withdrawal or modification of the proposal to establish the Willcox AVA.

TTB Determination

After careful review of the petition and the comments received, TTB finds that the evidence provided by the petitioner supports the establishment of the Willcox AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the "Willcox" AVA in southeastern Arizona, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of this AVA, its name, "Willcox," will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name "Willcox" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Willcox AVA will not affect any existing AVA. The establishment of the Willcox AVA will allow vintners to use "Willcox" as an appellation of origin for wines made primarily from grapes grown within the Willcox AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.259 to read as follows:

§ 9.259 Willcox.

(a) *Name.* The name of the viticultural area described in this section is "Willcox". For purposes of part 4 of this chapter, "Willcox" is a term of viticultural significance.

(b) *Approved maps.* The 21 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Willcox viticultural area are titled:

(1) Fort Grant, AZ, 1996;
(2) West of Greasewood Mountain, AZ, 1996;
(3) Greasewood Mountain, AZ, 1996;
(4) Willcox North, AZ, 1996;
(5) Railroad Pass, Ariz., 1979;
(6) Simmons Peak, AZ, 1996;
(7) Dos Cabezas, AZ, 1996;
(8) Pat Hills North, Ariz., 1974;
(9) Pat Hills South, Arizona, 1986 provisional edition;
(10) Sulphur Hills, AZ, 1996;
(11) Pearce, AZ., 1996;
(12) Turquoise Mountain, AZ, 1996;
(13) Black Diamond Peak, AZ, 1996;
(14) Cochise Stronghold, AZ, 1996;
(15) Cochise, AZ, 1996;
(16) Red Bird Hills, AZ, 1996;
(17) Steele Hills, AZ, 1996;
(18) Square Mountain, AZ, 1996;
(19) Muskhog Mountain, AZ, 1996;
(20) Reiley Peak, AZ, 1996; and
(21) Sierra Bonita Ranch, Ariz., 1972.

(c) *Boundary.* The Willcox viticultural area is located in Cochise and Graham Counties in southeastern Arizona. The boundary of the Willcox viticultural area is as described below:

(1) The beginning point is on the Fort Grant map at the intersection of State Highway 266 and an unnamed light-duty road known locally as Curtis Parkway, in Fort Grant, section 35, T9S/R23E. From the beginning point, proceed south-southeast in a straight line approximately 20.4 miles, crossing over the West of Greasewood Mountain and the Greasewood Mountain map and onto the Willcox North map, to the intersection of three unnamed light-duty roads known locally as Porters Ranch Road, East Saguaro Road, and North Circle I Road, near benchmark (BM) 4,243 on the Willcox North map, section 36, T12S/R24E; then

(2) Proceed east in a straight line approximately 5 miles to Interstate Highway 10 near the community of Raso, section 1, T13S/R25E; then

(3) Proceed south in a straight line approximately 0.8 mile to the 4,400-foot elevation contour, section 1, T13S/R25E; then

(4) Proceed southwesterly along the 4,400-foot elevation contour around the west end of the Dos Cabezas Mountains and continue southeasterly along the 4,400-foot elevation contour for a total of approximately 13.3 miles, crossing over the Railroad Pass map and onto the Simmons Peak map, to State Highway 186 on the Simmons Peak map, section 28, T14S/R26E; then

(5) Proceed south-southeast in a straight line approximately 15.8 miles, crossing over the Dos Cabezas map and onto the Pat Hills North map, to the intersection of the 4,700-foot elevation contour and an unnamed light-duty road known locally as East Creasey Ranch Road on the Pat Hills North map near BM 4,695, section 21, T16S/R28E; then

(6) Proceed southerly along the 4,700-foot elevation contour approximately 10.6 miles, crossing onto the Pat Hills South map, to an unnamed light-duty road known locally as East Uncle Curtis Lane, section 7, T18S/R28 E; then

(7) Proceed west along East Uncle Curtis Lane approximately 0.5 mile to an unnamed light-duty road known locally as South Single Tree Lane near the marked 4,664-foot elevation point, section 7, T18S/R28E; then

(8) Proceed south along South Single Tree Lane approximately 0.5 mile to State Highway 181, section 7, T18S/R28E; then

(9) Proceed west along State Highway 181 approximately 9.9 miles, crossing onto the Sulphur Hills map, to State Highway 191, section 10, T18S/R26E; then

(10) Proceed north-northeasterly, then west, along State Highway 191 approximately 4.8 miles, crossing onto the Pearce map, to an unnamed light-duty road known locally as Kansas Settlement Road, near BM 4,327, section 36, T17S/R25E; then

(11) Proceed southwest in a straight line approximately 8.9 miles, crossing over the Turquoise Mountain map and onto the Black Diamond Peak map, to the southeastern-most corner of the boundary of the Coronado National Forest on the Black Diamond Peak map, section 35, T18S/R24 E; then

(12) Proceed north along the boundary of the Coronado National Forest approximately 2 miles to the marked 4,821-foot elevation point, section 26, T18S/R24E; then

(13) Proceed north-northwest in a straight line approximately 13 miles, crossing over the Cochise Stronghold map and onto the Cochise map, to the northeastern corner of the boundary of the Coronado National Forest at the marked 4,642 elevation point on the Cochise map, section 26, T16S/R23E; then

(14) Proceed north-northwest in a straight line approximately 1.2 miles to the intersection of the 4,450-foot elevation contour and an unnamed secondary highway known locally as West Dragoon Road, section 23, T16S/R23E; then

(15) Proceed north in a straight line approximately 1.3 miles to the 4,400-foot elevation contour, section 11, T16S/R23E; then

(16) Proceed generally northerly along the 4,400-foot elevation contour approximately 10 miles, crossing onto the Red Bird Hills map, to Interstate Highway 10, section 3, T15S/R23E; then

(17) Proceed north-northwest in a straight line approximately 5.8 miles, crossing onto the Steele Hills map, to the intersection of the 4,600-foot elevation contour and an unnamed light-duty road known locally as West Airport Road, section 7, T14S/R23E; then

(18) Proceed east-northeasterly, then easterly, then northerly, then easterly along West Airport Road approximately 7.2 miles, crossing back onto the Red Bird Hills map and then onto the Square Mountain map, to the 4,240-foot elevation contour east of BM 4,264, section 6, T14S/R24E; then

(19) Proceed north-northwest in a straight line approximately 20.5 miles, crossing over the Muskhog Mountain and Reiley Peak maps and onto the Sierra Bonita Ranch map, to the intersection of two unnamed light-duty roads known locally as West Ash Creek Road and South Wells Road, near BM 4,487 on the Sierra Bonita Ranch map, section 3, T11S/R22E; then

(20) Proceed generally northerly along South Wells Road to BM 4,502, then continuing northerly along the western fork of the road for a total of approximately 7.7 miles to an unnamed light-duty road known locally as Bonita Aravaipa Road, section 27, T9S/R22E; then

(21) Proceed east in a straight line approximately 8.2 miles, crossing onto the Fort Grant map, to the beginning point.

Signed: July 25, 2016.

John J. Manfreda,

Administrator.

Approved: August 22, 2016.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 2016–21849 Filed 9–9–16; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 269

[Docket ID: DOD–2016–OS–0045]

RIN 0790–AJ42

Civil Monetary Penalty Inflation Adjustment

AGENCY: Under Secretary of Defense (Comptroller), Department of Defense.

ACTION: Final rule.

SUMMARY: On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990. The 2015 Act updates the process by which agencies adjust applicable civil monetary penalties (CMP) for inflation to retain the deterrent effect of those penalties. The 2015 Act requires that not later than July 1, 2016, and not later than January 15 of every year thereafter, the head of each agency must, by regulation published in the **Federal Register**, adjust each CMP within its jurisdiction by the inflation adjustment described in the 2015 Act. Accordingly, the Department of Defense must adjust the level of all civil monetary penalties under its jurisdiction through a final rule and make subsequent annual adjustments for inflation.

DATES: This rule is effective September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Brian Banal, 703–571–1652.

SUPPLEMENTARY INFORMATION: On Thursday, May 26, 2016 (81 FR 33389–33391), the Department of Defense published an interim final rule titled "Civil Monetary Penalty Inflation Adjustment" for a 60-day public comment period. The public comment period ended on July 25, 2016. No public comments were received.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust the level of civil monetary penalties through a final rule in the **Federal Register**.

Background Information

The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 104 Stat. 890 (28 U.S.C. 2461, note), as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, April 26, 1996, and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), Public Law 114–74, November 2, 2015, requires agencies to annually adjust the level of Civil Monetary Penalties (CMP) for inflation to improve their effectiveness and maintain their deterrent effect. The 2015 Act requires that not later than July 1, 2016, and not later than January 15 of every year thereafter, the head of each agency must adjust each CMP within its jurisdiction by the inflation adjustment described in the 2015 Act. The inflation adjustment must be determined by increasing the maximum CMP or the range of minimum and maximum CMPs, as applicable, for each CMP by the cost-of-living adjustment, rounded to the nearest multiple of $1. The cost-of-living adjustment is the percentage (if any) for each CMP by which the Consumer Price Index (CPI) for the month of October preceding the date of the adjustment (January 15), exceeds the CPI for the month of October in the previous calendar year. The initial adjustment to a CMP may not exceed 150 percent of the corresponding level in effect on November 2, 2015.

Any increased penalties will only apply to violations which occur after the date on which the increase takes effect.

Each CMP subject to the jurisdiction of the Department of Defense has been adjusted in accordance with the 2015 Act. In compliance with the 2015 Act, the Department of Defense is amending its CMP penalty amounts.

Executive Summary

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act

Improvements Act of 2015 (the 2015 Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act). The 2015 Act updates the process by which agencies adjust applicable civil monetary penalties for inflation to retain the deterrent effect of those penalties. Agencies are required to make an initial "catch-up" adjustment for civil monetary penalties with the new levels published in the **Federal Register** by July 1, 2016, to take effect no later than August 1, 2016. Thereafter, agencies are required to make annual inflationary adjustments, starting January 15, 2017, and each year following, based on Office of Management and Budget (OMB) guidance. Finally, each year in accordance with OMB Circular A–136, agencies will report in the Agency Financial Reports the status of adjustments to civil monetary penalties.

I. Purpose of the Regulatory Action

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, requires the Department of Defense to adjust applicable civil monetary penalties for inflation to improve the effectiveness and retain the deterrent effect of such penalties. The implementation of this rule will deter violations of law, encourage corrective action(s) of existing violations, and prevent waste, fraud, and abuse within the Department of Defense.

Description of Authority Citation

Section 4(a) of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, (28 U.S.C. 2461, note), mandates that not later than July 1, 2016, and not later than January 15 of every year thereafter, the head of each agency (in this case the Secretary of Defense) must adjust for inflation each civil monetary penalty provided by law within the jurisdiction of the Federal agency (in this case the Department of Defense), except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986 [26 U.S.C. 1 *et seq.*] or the Tariff Act of 1930 [19 U.S.C. 1202 *et seq.*], through a final rulemaking; and publish each such adjustment in the **Federal Register**.

II. Summary of the Major Provisions of the Regulatory Action in Question

Previously, the Debt Collection Improvement Act of 1996 required agencies to adjust civil monetary penalty levels every four years. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) Act updates this requirement, requiring annual adjustments for inflation based on Office of Management and Budget (OMB) guidance.

In accordance with the 2015 Act, OMB will provide adjustment rate guidance no later than December 15, 2016, and no later than December 15 for each following year, to adjust for inflation in the Consumer Price Index for all Urban Consumers as of the most recent October. Agencies are required to publish annual inflation adjustments in the **Federal Register** no later than January 15, starting in 2017, and each subsequent year.

Agency heads are responsible for implementing this guidance and for submitting information to OMB annually on applicable civil monetary penalties through Agency Financial Reports in accordance with OMB Circular A–136.

III. Costs and Benefits

There are no significant costs associated with the regulatory revisions that would impose any mandates on the Department of Defense, Federal, State or local governments, or the private sector. The Department of Defense anticipates that civil monetary penalty collections may increase in the future due to new penalty authorities and other changes in this rule. However, it is difficult to accurately predict the extent of any increase, if any, due to a variety of factors, such as budget and staff resources, the number and quality of civil penalty referrals or leads, and the length of time needed to investigate and resolve a case.

Regulatory Procedures

Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," because it does not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive Orders.

Unfunded Mandates Reform Act (2 U.S.C. Chapter 25)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule the mandates of which require spending in any year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

The Department of Defense certifies that this rule is not subject to the Regulatory Flexibility Act because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require a regulatory flexibility analysis.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

The Department of Defense certifies that this rule does not trigger any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, "Federalism"

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 269

Administrative practice and procedure, Penalties.

■ Accordingly, the interim final rule published at 81 FR 33389–33391 on May 26, 2016 is adopted as a final rule without change.

Dated: September 7, 2016.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–21878 Filed 9–9–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2016–OSERS–0022; CFDA Number: 84.421B.]

Final Priorities, Requirements, and Definition—Disability Innovation Fund—Transition Work-Based Learning Model Demonstrations

Correction

In rule document 2016–18031 beginning on page 50324 in the issue of Monday, August 1, 2016, make the following correction:

On page 50324, in the second column, under the **DATES** heading, in the last line "October 9, 2016" should read "September 6, 2016".

[FR Doc. C3–2016–18031 Filed 9–9–16; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP68

Telephone Enrollment in the VA Healthcare System

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final, without change, an interim final rule amending its medical regulations. Specifically, this rule allows veterans to complete applications for health care enrollment by providing application information, agreeing to VA's provisions regarding copayment liability and assignment of third-party insurance benefits, and attesting to the accuracy and authenticity of the information provided to a VA employee over the phone. This action makes it easier for veterans to apply to enroll and speeds VA processing of applications.

DATES: *Effective Date:* This rule is effective on September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Mathew J. Eitutis, Acting Director, Member Services 3401 SW 21st St. Building 9 Topeka, KS 66604; 785–925–0605. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 16, 2016, VA published an interim final rule amending § 17.36(d)(1) of title 38, Code of Federal Regulations (CFR). 81 FR 13994. The amendment allows veterans to apply for enrollment in the VA healthcare system by telephone; in particular, it allows veterans to consent over the phone to pay any copayments the law requires for treatment or services and to assign insurance benefits to VA.

VA invited interested persons to comment on the interim final rule on or before May 16, 2016. We received two comments. One commenter expressed concern over medications provided to veterans with overseas service in the 1970s. The other sought VA assistance with a claim for VA benefits. Both of these comments are outside the scope of this rulemaking. We are, therefore, making no changes based on those comments.

Based on the rationale in the interim final rule and in this final rule, VA is adopting the interim final rule as final with no changes.

Administrative Procedure Act

The Secretary of Veterans Affairs determined there was good cause under 5 U.S.C. 553(b)(B) to publish this rule without prior opportunity for public comment. The Secretary concluded that failure to authorize verbal applications as soon as possible was contrary to the public interest because it prolonged delays in processing applications for enrollment in the VA healthcare system. We dispensed with the 30-day delay requirement for the effective date of a rule for good cause under 5 U.S.C. 553(d)(3). We anticipated that this regulation would be uncontroversial and believed that any further delay in allowing VA to complete applications by telephone would be contrary to the public interest.

Effect of Rulemaking

The Code of Federal Regulations, as revised by this final rulemaking, represents the exclusive legal authority on this subject. No contrary rules or procedures are authorized. All VA guidance must be read to conform with this interim final rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

Although this final rule contains provisions constituting collections of information, at 38 CFR 17.36(d)(1), under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or revised collections of information are associated with this final rule. It amends an approved collection by allowing a new method for veterans to submit the requested information, but this change does not affect the burden on the public under the approved collection. The information collection requirements for 38 CFR 17.36(d)(1) are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900–0091.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule does not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," requiring review by OMB, unless OMB waives such review, as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this interim final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule has no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on September 6, 2016, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

■ For the reasons set out in the preamble, the interim final rule published in the **Federal Register** at 81 FR 13994 on March 16, 2016, is adopted as final without change.

Dated: September 6, 2016.

Jeffrey Martin

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2016–21830 Filed 9–9–16; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 51 and 63

[GN Docket No. 13–5, RM–11358; FCC 16–90]

Technology Transitions, Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) initiated this rulemaking in August 2015 to help guide and accelerate the transitions from networks based on TDM circuit-switched voice services running on copper loops to all-IP multi-media networks using copper, co-axial cable, wireless, and fiber as physical infrastructure. In this Second Report and Order and Order on Reconsideration, we take several actions aimed at stripping away anachronistic rules while ensuring that competition continues to thrive and consumers are protected during technology transitions.

DATES: Effective upon approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing the effective date(s).

FOR FURTHER INFORMATION CONTACT: Megan Capasso, Wireline Competition Bureau, Competition Policy Division, (202) 418–1151, or send an email to *Megan.Capasso@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order and Order on Reconsideration in GN Docket No. 13–5, RM–11358, FCC 16–90, adopted July 14, 2016 and released July 15, 2016. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It is available on the Commission's Web site at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-90A1.pdf.* The Commission will send a copy of this Second Report and Order and Order on Reconsideration in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Synopsis

1. In the Second Report and Order, we update our review and notice procedures governing the filing and processing of applications pursuant to section 214 of the Communications Act of 1934, as amended (the Act) to discontinue, reduce, or impair service (the section 214 discontinuance process). Section 214 of the Act and the Commission's implementing rules generally require telecommunications carriers and interconnected Voice over Internet Protocol (VoIP) providers to obtain Commission authority to discontinue interstate or foreign service to a community or a party of a community. The Commission relieved Commercial Mobile Radio Service (CMRS) providers of this obligation in 1994. The *VoIP Discontinuance Order* moots any need to find a separate basis of authority over VoIP providers in connection with this Order.

2. All applicants seeking to discontinue a service are currently required to file a section 214 application in accordance with rules governing notice, opportunity for comment, review, and processing requirements. Commenters have 15 days to file objections if the applicant is a non-dominant carrier and 30 days to file if the applicant is a dominant carrier. The application is automatically granted on the 31st day after filing for non-dominant carriers and on the 60th day

after filing for dominant carriers unless the Wireline Competition Bureau (Bureau) has notified the applicant that the grant will not be automatically effective. The Bureau has considerable discretion in determining whether to grant such authority based on the application, responsive comments, and other filings. The Bureau will normally authorize the discontinuance "unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience or necessity is otherwise adversely affected."

3. In evaluating whether the discontinuance will harm the public interest, the Commission has employed a five factor balancing test to analyze: (1) The financial impact on the common carrier of continuing to provide the service; (2) the need for the service in general; (3) the need for the particular facilities in question; (4) increased charges for alternative services; and (5) the existence, availability, and adequacy of alternatives. We find that the existence, availability, and adequacy of alternatives, or the adequate replacement factor, has heightened importance in the context of technology transitions. Consistent with the proposals in the *Emerging Wireline Further Notice of Proposed Rulemaking* (*FNPRM*), 80 FR 57768–01, we now adopt an updated approach for preparing, reviewing, and evaluating section 214 discontinuance applications that relate to technology transitions (technology transition discontinuance applications).

4. *The Framework for the Adequate Replacement Test.* We conclude that the public interest requires that applications seeking to discontinue a legacy time-division multiplexed (TDM)-based voice service as part of a transition to a new technology, whether IP, wireless, or another type, indicate that a technology transition is implicated. The requirements we articulate for eligibility for automatic grant of discontinuance applications involving a technology transition apply only to legacy *voice* services. Other services to which section 214(a) discontinuance obligations apply and voice services subject to section 214(a) being discontinued in non-technology transitions circumstances will continue to be subject to our pre-existing discontinuance process, which provides the public an opportunity to comment and to which our traditional five-factor balancing test applies. We decline to apply the adequate replacement test to legacy data services. For any other domestic service for which a discontinuance application is filed, section 63.71(e) of our rules (redesignated as section 63.71(f) herein) shall continue to govern automatic grant procedures. Unlike traditional applicants, technology transition discontinuance applicants seeking streamlined treatment will be required to submit with their application either a certification or a showing as to whether an adequate replacement exists in the service area. Applications either (i) certifying or (ii) demonstrating successfully through their showing that an adequate replacement exists will be eligible for automatic grant pursuant to section 63.71(d) of the Commission's rules as long as the existing requirements for automatic grant are satisfied. We stress that attempting to satisfy the adequate replacement test is entirely voluntary for an applicant. Voice technology transition discontinuance applicants that decline to pursue this path are not eligible for streamlined treatment and will have their applications evaluated on a non-streamlined basis under the traditional five factor test. Moreover, the showing made regarding an adequate alternative under the five factor test does not require the network performance testing and other specific showings required under the adequate replacement test for streamlined treatment.

5. We further conclude that an applicant for a technology transition discontinuance may demonstrate that a service is an adequate replacement for a legacy voice service by certifying or showing that one or more replacement service(s) offers all of the following: (i) Substantially similar levels of network infrastructure and service quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications for individuals with disabilities remain available; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors. One replacement service must satisfy all the criteria to retain eligibility for automatic grant.

6. Technology transition applicants can either demonstrate compliance with these objective criteria or make a demonstration that, despite not being able to meet the criteria, the totality of the circumstances demonstrates that an adequate replacement nonetheless exists. If an applicant cannot certify or make that showing, or declines to pursue the voluntary path of streamlined treatment, it must include in its application an explanation of how its proposed discontinuance will not harm the public interest, with specific reference to the five factors the Commission traditionally considers. The Bureau will then weigh that information as part of the traditional multi-factor evaluation, placing particular scrutiny on the adequate replacement factor under the newly-enhanced test. Only meaningful, factual objections regarding the reliability of certifications provided will be persuasive. Any entity or individual may object to the certification or showing, and the Commission will consider the objection and determine if the applicant needs to provide additional support.

7. In adopting objective, quantifiable standards for the adequate replacement test, we seek to minimize uncertainty or confusion that could slow or even discourage technology transitions. Moreover, we do not want to stifle the new and innovative ways that a replacement service could benefit customers. For that reason, we announce a test that sets clear, achievable benchmarks but leaves flexibility, recognizing that a shift from a TDM network to a new technology will never be a purely apples-to-apples comparison.

8. The approach we adopt today places a new prominence on the adequate replacement analysis. This new emphasis does not, however, displace the Commission's traditional five-factor test outside the context of technology transition discontinuance applications seeking streamlined treatment. The five factor test is aimed at promoting—and where necessary, balancing—the four missions of our agency, namely to protect consumers, promote competition, ensure universal access, and strengthen public safety. Four of the factors—(1) the financial impact on the common carrier of continuing to provide service, (2) the need for the service in general, (3) the need for the particular facilities in question, and (4) increased charges for alternative services—offer a traditional balancing of the financial and competitive needs of industry against the values of consumer affordability and expectations.

9. The adequate replacement factor, in contrast, aims to balance all four missions as a means of ensuring all Americans benefit from these exciting new technologies. This has always required a deeper analysis, but that need is particularly acute in the context of discontinuances involving legacy voice services related to technology transitions. We disagree that the action we take today is inconsistent with the Commission's recent revisions to the universal service program rules,

particularly in the Connect America Fund proceeding. We made it clear in the *December 2014 Connect America Order* that even though we were forbearing "from enforcing a federal high-cost requirement that price cap carriers offer voice telephony service throughout their service areas pursuant to section 214(e)(1)(A) in three types of geographic areas," those carriers are still subject to section 214(a)'s mandate regarding the need for Commission authorization before discontinuing a service. We conclude, however, that certain principles—such as access to critical applications such as 911—are not subject to balancing and must remain available and fully functional as part of any transition. The streamlined, technology neutral framework that we adopt will help to protect those principles.

10. *Limited to the Technology Transition Context.* We conclude that the adequate replacement test we discuss here should only apply to any application involving a technology transition from TDM to IP or wireline to wireless in which the applicant intends to discontinue completely customers' access to the legacy voice service. The components of the test are specifically tailored to measure considerations relevant to a technology transition that are not as prominent in other contexts. For example, requiring minor discontinuances of particular applications or functionalities (such as operator-assisted functionalities) associated with a service to demonstrate that an adequate replacement is available is not necessary. We conclude that limiting the test to the context of technology transitions accomplishes our regulatory goals in an appropriately narrow manner.

11. *No Presumptions or Exclusions Regarding Specific Technologies.* We decline to presume that particular technologies, by their nature, represent an adequate replacement for legacy voice services in all instances, because our public interest analysis demands that applicants provide objective evidence showing a replacement service will provide quality service and access to needed applications and functionalities. IP-based and other new services should demonstrate that they meet consumers' and providers' fundamental needs through satisfaction of performance standards, compliance with Commission rules, and harmony with key legacy functionalities and applications before we grant permission to remove existing voice services from the marketplace. It is critical that we retain the ability to examine each discontinuance application given the potential for variability in different implementations of the same technology. The same technology could nonetheless utilize different features, be produced by different vendors with different methodologies, and use different quality measurement techniques, any of which could result in varied service quality and thus lead to potential interoperability issues. We will allow testing data from one area to be used to support future discontinuance applications in another area, conditioned on certifications that the network is built according to the same detailed design plan as the network supporting the service under the prior discontinuance. We believe the current discontinuance process, subject to the changes adopted today, provides the appropriate balance of allowing for public comment and objections while retaining the opportunity for speedy and effective resolutions.

12. We retain largely the same standards for automatic grant that apply under the current regime for the special context of technology transitions. However, we allow a more streamlined approach for discontinuances involving services that are substantially similar to those for which a section 214 discontinuance has previously been approved. We also take action to streamline our section 214 process in instances where consumers no longer subscribe to legacy voice services. Although our actions today focus primarily on technology transitions, we recognize that the market is constantly evolving even outside the context of these crucial transitions. For that reason, we allow a section 214 discontinuance application be eligible for automatic grant without any further showing if the applicant can demonstrate that the service has zero customers in the relevant service area and no requests for service in the last six months.

13. *No Arbitrary Timelines.* We do not establish timelines for reviewing applications that are not eligible for automatic grant, because the public interest demands that we provide appropriate scrutiny and careful review to discontinuance applications related to technology transitions given their novelty and complexity, and we cannot guarantee at this time how long that process will take. An application will remain under consideration for automatic grant unless: (i) The Commission receives comments setting forth significant, meaningful, evidence-based objections or (ii) after reviewing the application, Commission staff has concerns about the impact of the planned discontinuance on the public convenience and necessity. Should such an objection arise, we will review the applicant's and objector's showings as expeditiously as possible. We do intend to rely on the efficiencies of precedent and data provided regarding similar transitions when factually or legally similar disputes arise. Finally, should it be determined that the existing process is resulting in unacceptable delay or inefficiency, we will revisit our decision not to establish timeframes for acting on section 214 applications.

14. We also decline to adopt a hard deadline for when a Public Notice should be released for a technology transition discontinuance application following its submission. Staff review applications for completeness, accuracy, and fulfillment of all predicate requirements, including providing notice to affected customers, before issuing the Public Notice. Imposing a hard deadline could result in issuance of public notice of defective applications, and commenters have not identified a pattern of undue delay. Based on actual experience with the streamlined process we adopt today, we can revisit this issue at a future date if necessary. Moreover, to facilitate public input on these types of applications, the Bureau will not only continue to list such notices prominently, but will also identify them specifically as applications related to technology transitions on the Commission's Web site.

15. *An Objective Factor-Based Test Is Preferable To A Subjective Case-by-Case Approach for Technology Transition Discontinuances.* The three-pronged test tied to specific benchmarks will allow industry to establish reasonable expectations about the investments necessary to satisfy the test while also protecting consumers. Notably, through the detailed articulation that we provide today, the adequate replacement standard will be substantially clearer than it has been to this point.

16. *Successful Prior Certifications Will Streamline Future Applications.* We will allow a repeat applicant for a 214 discontinuance application in the technology transition context to rely on its successful certification of compliance with all three prongs of the adequate replacement test in a previously approved application involving a substantially similar service. A substantially similar service is one offered by the same applicant relying on the same technology and utilizing a comparable network infrastructure. The practical effect of this rule is to allow the applicant to bypass the performance testing requirements described below.

17. Commenters will have the opportunity to rebut an applicant's planned reliance on a previous application if they can offer substantial evidence that the technology or network infrastructure are not in fact substantially similar to the service subject to the certifications in the previous application or the certifications have been proven unreliable, based on significant consumer complaints or new independent data.

18. *Treating First and Third Party Services Equally.* We conclude that both first and third party services should be eligible as potential adequate replacement services. Third party services have always been eligible for consideration under the 214 discontinuance process as potential adequate replacements. The question is whether an adequate replacement exists in the service area, not who provides the service that provides that adequate replacement.

19. Applicants seeking to discontinue a service have the burden of demonstrating that the discontinuance will not harm the public interest. Applicants relying on a third party service will be allowed to make a *prima facie* showing based on publicly available information as to whether the third party service meets our test as an adequate replacement. We will take into account an applicant's faultless inability to access necessary data and information from a third party when reviewing any application that relies on the existence of third party services to meet the adequate replacement test. Any commenter opposing grant of a section 214 application relying on a third party service must rebut the *prima facie* showing made by the applicant. Should the objecting commenter raise legitimate concerns, we will remove the application from consideration for automatic grant. In attempting to rebut such a showing, members of the public who use the third party service can agree to participate in tests necessary to measure network performance, as required under the criteria.

20. *Requiring A Single Service to Satisfy All Prongs.* To ensure that consumers receive the integrated service experience they need and deserve, we require that a single service (whether first- or third-party) satisfy all three prongs of the adequate replacement test in order to be eligible for automatic grant.

21. *Network Infrastructure and Service Quality.* To satisfy the first prong of the adequate replacement test, and thereby be eligible for automatic grant, an applicant must demonstrate that at least one service provides: Substantially similar network performance as the service being discontinued; substantially similar service availability as the service being discontinued; and coverage to the entire affected geographic service area.

22. Customers rightfully expect that any adequate replacement for a wireline legacy voice service will be available in the same coverage area, allow customers to make and receive high quality voice calls consistently, and support the applications and functionalities on which they rely. However, we recognize that a comparison between a legacy voice service and its potential replacement is not an apples-to-apples comparison. We thus provide applicants the flexibility either to demonstrate compliance with all of the benchmarks, or to provide evidence that demonstrates that, despite falling short of certain specified benchmarks, the network providing the replacement service nonetheless provides substantially similar performance and availability when considering the totality of the circumstances. A replacement network's performance will be evaluated against objective benchmarks, but falling short of any single metric will not automatically disqualify it from being considered adequate. The actual performance numbers will be evaluated in a holistic manner to determine the overall network performance, enabling the carrier to show that the totality of circumstances demonstrate adequate performance. Legacy data services will not be subject to the adequate replacement test and associated streamlined processing that we announce today. Rather, those services will be evaluated under the traditional process, and the Commission will continue to closely scrutinize such applications in determining whether the public interest would be harmed by the discontinuance.

23. We adopt benchmarks related to various metrics that, if satisfied, would demonstrate that a service is performing adequately enough to serve as a replacement for a legacy TDM service. There are two ways of demonstrating adequacy: (i) Through performance testing that demonstrates satisfaction of each of the benchmarks, or (ii) a demonstration, based on the totality of the circumstances, the network still provides substantially similar performance and availability. As an example, an applicant might fall just short of our data loss benchmark but nonetheless make a showing that the totality of the circumstances demonstrates adequate performance. That showing would presumably include test data demonstrating achievement of the remaining benchmarks as well as an explanation for why the network fell short of the data loss benchmark and any planned improvements to the network which would allow for enhanced performance in the future. We interpret "substantially similar" in this context to mean that the network operates at a sufficient level with respect to the metrics identified below, such that the network platform will ensure adequate service quality for interactive and highly-interactive applications or services, in particular voice service quality, and support applications and functionalities that run on those services. Under either approach, the applicant initially provides the results of network testing, as well as outage and repair reporting, that demonstrate achievement of the benchmarks, although it may rely in subsequent applications on testing data from a previously approved discontinuance application.

24. *Network Performance.* We find that there are two essential metrics used to determine whether a particular data transmission network is an adequate replacement for a legacy wireline voice service: Latency and data loss. Failure to satisfy a single metric is not disqualifying. An applicant may either demonstrate achievement of both benchmarks, thus presumptively showing adequate performance, or demonstrate that the totality of the circumstances, including the voice service availability and network coverage criteria, demonstrates adequate network performance. By "presumptive" we refer to the fact the Commission may seek additional proof beyond certification.

25. We rely on industry technical standards and our approaches in other proceedings to adopt the benchmarks we will use in our section 214 process. The performance benchmarks are measured in accordance with our Technical Appendix. We define the latency benchmark as 100 milliseconds or less for 95% of all peak period round trip measurements, a benchmark consistent with previous Commission decisions in the universal service context, informed by ITU–T standards, and comparable to demonstrated performance under the Commission's Measuring Broadband America program. This metric also provides for a latency performance that will allow the applicant's network to perform its portion of an end-to-end voice call. We define the data loss metric as less than

or equal to 1 percent for packet based networks.

26. Latency and data loss are the terms used for the two essential metrics described above for measuring network performance as a means of comparison to a legacy wireline voice service. We plan to apply the same metrics and benchmarks to all replacements, whether fixed or mobile, wireline or wireless, terrestrial or satellite. These metrics reflect the type of performance that should be expected of a sophisticated packet-based network infrastructure that can carry one or more applications including voice calls, fax, security/health alerts, gaming, video streaming and video teleconferencing. In order to be eligible for automatic grant, an applicant must be prepared to demonstrate the replacement service will perform as effectively as the legacy voice service.

27. *Latency.* In order for a replacement service to meet this aspect of the network performance prong and be eligible for streamlined treatment, latency must be limited to 100 milliseconds or less. Latency measures the time it takes for a data packet to travel from one point to another in a network, and is a significant factor in analyzing a network's performance. Measuring Broadband America data shows that wireline broadband providers meet this requirement. The Commission has measured latency as the round-trip time from the consumer's home to the closest designated speed measurement server within the provider's network and back.

28. AT&T asserts that the 100 millisecond roundtrip benchmark cannot be applied to the network architecture of certain non-packet based wireless services and that, as a result, the Commission should "adopt[ ] a threshold of less than 200 milliseconds measured mouth-to-ear." The 100 millisecond roundtrip standard is consistent with the *CAF Phase II Service Obligations Order,* where the Wireline Competition Bureau explained that it designed the 100 millisecond roundtrip latency standard to ensure that consumers ultimately achieve 200 milliseconds mouth-to-ear latency. That being said, the totality of the circumstances approach allows applicants to provide objective evidence to support their showing that the replacement service would offer substantially similar network performance and service availability, even if that evidence is not identical to the exact metrics that we identify. Our metrics, benchmarks, and methodologies measure packet-based technologies, which we expect will most frequently be associated with next generation technologies. We also note several examples of packet mobile networks. Specifically, because the 100 millisecond roundtrip standard is designed to ensure that consumers achieve 200 millisecond mouth-to-ear latency, objective evidence that a non-packet based replacement service meets the underlying 200 millisecond mouth-to-ear standard would be compelling as a component of a totality of the circumstances showing.

29. *Data Loss.* In order for a replacement service to meet this aspect of the network performance prong, data loss should be less than 1 percent for packet-based networks. Data loss exceeding 1 percent for packet-based networks would cause performance issues that warrant further examination. Applicants would need to demonstrate data loss is lower than this benchmark in order to have the opportunity to be eligible for automatic grant. Data loss is often referred to as the IP Packet Loss Ratio (IPLR) in IP networks. This metric measures the ratio of total lost IP packet outcomes to total transmitted IP packets in the environment under review. Consecutive packet loss is of particular concern for certain time-sensitive applications, such as voice and video.

30. We have chosen a packet loss rate of less than 1 percent because it will allow for successful quality voice calls and other highly interactive applications. We further find that this data loss benchmark is appropriate to ensure successful transmission of voice and video communications.

31. Although the network infrastructure and the services that run over the network are distinct, network performance affects the service quality being delivered to customers and thus should be measured. These measurements are an objective tool for determining when an application will be eligible for automatic grant; if the applicant cannot demonstrate that, it is appropriate to engage in further examination to ensure the services provided over newer technologies are adequate replacements for legacy voice services.

32. We recognize that carriers may incur costs in order to demonstrate they meet these benchmarks, and have taken steps to limit the burden of making these demonstrations in the section 214 discontinuance process. We allow successful testing results to be used as support for future applications involving the same applicant offering a service on a substantially similar network. Moreover, carriers are not required to meet these standards to file a section 214 discontinuance; if a carrier does not wish to present such information, its section 214 application will not be eligible for automatic grant, but rather will be subject to the traditional review process. And finally, we exempt small providers from the requirement to submit testing results in order to be eligible for automatic grant.

33. *Wireless—Packet Networks.* We intend to rely on the same metrics and benchmarks, applicable to both wireline and wireless networks, when we examine whether a mobile or fixed wireless network can qualify as an adequate replacement. Appendix B allows for generalized network testing standards which are applicable to both wireline and wireless networks.

34. *Testing Methodology and Parameters.* We find testing is necessary, at least initially, to ensure that applicants actually meet the benchmarks we have established to be eligible for automatic grant. Established testing parameters will ensure that the Commission analyzes similar data sets from applicants in the technology transitions. Although we expect that the Order and Technical Appendix will encompass all of the information that applicants need, we delegate authority to the Office of Engineering and Technology, working in consultation with the Wireline Competition Bureau and the Wireless Telecommunications Bureau, to issue more specific testing requirements, as necessary.

35. In order to comply with the testing parameters listed below, applicants filing their first technology transition discontinuance application will need to begin testing at least 30 days prior to filing that application. The 30-day test period is intended to ensure that the network is in a stable state and to allow for long-term projection of network infrastructure performance. Shorter periods would not account for variation in patterns and usage and could allow the applicant time to traffic engineer their network so that the chosen test customers performed better for a short period of time.

36. To demonstrate that replacement services will have adequate network performance and thereby remain eligible for streamlined treatment for a technology transition discontinuance, the provider must perform the following actions, which are detailed in Appendix B to this Order:

- Conduct 30 days of performance testing. This timeframe allows for: (1) Testing of weekday and weekend periods with sufficient repetition to ensure a single outlying week was not chosen, and (2) monthly variation in network usage for individuals paying bills, 30 day/monthly data caps and enterprise end of month processing.

- Use a randomly selected sample group of a total of 50 residential and 50 enterprise customer locations per potential replacement service for testing, to ensure a representative sample. We recognize that fully random selection may not be possible because customer consent is required and other factors may impact the selection process. If the area where service is proposed to be discontinued is very large, for example covering several states or Tribal lands, more than 100,000 customers, or containing several legacy Local Access Target Areas, then several separate sample sets of 30–50 consumer locations would be required per state, region, or geographically-referenced area.
- Report results to the Commission.
- Host a Web site or Web sites where all test data, results, test plan and all associated documentation that is not subject to a confidentiality request or confidential pursuant to section 0.441 *et seq.* of our rules are available publicly. We would generally consider the detailed design document a document that warrants confidential treatment.

37. While we provide some flexibility in the testing parameters an applicant will use, the Commission will include in its evaluation of the discontinuance application whether the testing conditions used were appropriate to measure performance. Thus, in addition to testing results, the Commission will consider the testing parameters as a factor in determining whether it needs to remove the application from streamlined processing. If the testing parameters raise sufficient concerns such that the Commission removes the application from streamlined processing, the Commission will then consider those testing parameters in any totality of the circumstances analysis of the adequacy of the replacement network.

38. *Small Business Exemption from the Network Performance Testing Requirements.* We emphasize that no carrier *must* conduct testing or otherwise meet the criteria we adopt today. Compliance with these criteria merely enables potential automatic grant of a discontinuance application. The adequate replacement factor is merely one part of a multifactor balancing test, and the benchmarks associated with the criteria provide guidance to carriers and a path toward automatic grant of their technology transitions discontinuance applications. We also reemphasize that once a carrier completes testing of a next-generation service and successfully obtains automatic grant, it need not conduct testing again if it files an application involving a substantially similar replacement service.

39. However, we provide smaller carriers more flexibility in how they demonstrate network performance under this prong of the three-pronged test. We do not extend this exemption to any other components of the adequate replacement test we adopt today, including both of the other aspects of the network infrastructure prong (service quality and network coverage) or the other two prongs of the test. We conclude that carriers with 100,000 or fewer subscriber lines, aggregated across all affiliates, may remain eligible for automatic grant without compliance with the specific testing requirements of the network performance criterion we articulate today. This exemption from complying with the specific testing parameters announced herein does not apply to any rate-of-return carrier that is affiliated with a price cap carrier. We encourage them, however, to share with the Commission whatever information they deem probative of their network performance.

40. *Service Availability.* In order to meet this aspect of the network performance prong and be eligible for automatic grant, an applicant must demonstrate service availability of 99.99 percent. The test we adopt today consists of a standard formula traditionally used by industry to measure telephone service availability for which we have defined the variables to ensure that all discontinuing carriers are measuring the same information. The replacement service's availability will be calculated using data regarding customer trouble reports, the average repair interval in responding to those reports, the number of lines in the service area, and the duration of the observation period to reach a representative measurement of a "four 9s" benchmark used to measure service availability. We conclude these variables will provide the best measure of customers' ability to access their provider's network.

41. The ITU defines "reliability" as "[t]he probability that an item can perform a required function under stated conditions for a given time interval." It defines "availability" as "[a]vailability of an item to be in a state to perform a required function at a given instant of time or at any instant of time within a given time interval, assuming that the external resources, if required, are provided."

42. We conclude that a 99.99 percent service availability standard, calculated according to the formula and parameters established herein, is a reasonable approach to ensure that a replacement service presumptively provides substantially similar service as the service being discontinued. We find that a so-called "five 9s" (*i.e.*, 99.999 percent availability) standard, which would allow a subscriber's service to have, on average, approximately 5 minutes and 15 seconds of downtime per year, is too high a threshold. It would impose a higher standard than currently applies to TDM-based service. We also find that a 98 percent availability standard, which would allow, on average, approximately 7 days, 7 hours, and 12 minutes of downtime per year, is too low a benchmark for an applicant to be eligible for automatic grant, because it would allow more downtime than consumers should reasonably expect. (This conclusion does not prejudge how we might view such an application in the context of a holistic review.) The difference between a 99.999 percent and a 98 percent reliability standard—less than 2 percent—translates to more than seven additional days' worth of service downtime per year, an amount that we judge would be quite meaningful to consumers. We conclude that if a replacement service faces that much service downtime, the section 214 application should not eligible for automatic grant.

43. For carriers to demonstrate satisfaction of the 99.99 percent standard, we establish the following formula: *Availability* = 1 − [(Number of Customer Trouble Reports) × (Average Repair Interval)/(Number of Lines (prorated)) × (Observation Period Duration)]. For the purpose of this calculation, the following definitions apply:

- A "customer trouble report" is any report regarding trouble with service made by a customer to a carrier's service department in which the customer reports either: (1) A total loss of connectivity, or (2) an inability to make and/or receive any voice calls using the carrier's voice replacement service while other services provided over the customer's connection may continue to function. The number of customer trouble reports must be tallied over all lines that are serving customers in the replacement network in the affected service area at any time during a contiguous 30-day observation period.
- A "repair interval" is the elapsed time, as on a running clock, from when a customer reports a trouble to the carrier's service department until the carrier's repair of the trouble is complete and the customer's service is restored. If a customer reports trouble with service during the 30-day

observation period that is not resolved by the end of the 30-day observation period, the length of the repair interval runs from the time the trouble with service is reported to the end of the observation period. The elapsed time may be recorded in measurement units of the applicant's choosing, as precisely as the applicant chooses. When rounding is required, however, elapsed time must always be rounded up to the next higher measurement unit. The "average repair interval" is then calculated by summing the lengths of all repair intervals, over all lines that are serving customers in the replacement network, and dividing that sum by the number of customer trouble reports in the 30-day observation period.

- "Number of lines (prorated)" is the number of replacement network lines being served by the provider during the 30-day observation period. For the purpose of this calculation, lines served for part of the observation period should be pro-rated. A line that is in service for the entire duration of the observation period is counted as 1 line. When required, round fractional lines to the nearest hundredth of a line.
- The "observation period duration" should be expressed in the same units as the average repair interval.

44. In reporting the results of the availability calculation to the Commission as part of an application seeking streamlined treatment for a technology transition discontinuance, the applicant must report: (1) The number of customer trouble reports; (2) the average repair interval; (3) the number of lines (prorated); and (4) the calculated availability.

45. *Congestion-Based Voice Call Failure.* Certain non-packet wireless access technologies providing fixed services can experience the failure of voice calls because of network congestion. To address this potential issue, we establish a metric that applies solely to these technologies for determining the frequency of congestion-based voice call failure, meaning the probability that a customer trying to make a call will be unable to do so due to network congestion. We conclude that probability must be less than one percent during each daily peak busy hour, for at least 95 percent of the 30 days in the measurement period, to serve as an adequate replacement for a legacy voice service.

46. To calculate this benchmark for purposes of remaining eligible for automatic grant, the provider must calculate the probability of congestion-based voice call failure for every hour. For each of the 30 days measured, the provider must then determine the hour that had the highest probability of congestion-based voice call failure that day. The probability of congestion-based voice call failure each hour should be determined by dividing the number of failed calls during the hour by the total number of call attempts during the hour. For 95 percent of the total days, the failure probability during the hour with the highest failure probability must be less than one percent, *i.e.,* for at least 95 percent of the total days, less than one percent of all calls may be blocked in the worst hour due to unavailability of a radio access channel. These measurements would not be taken on a sample basis, but would be collected at each cell tower over all call attempts to or from customers for a 30-day period. In addition, if there are seasonal differences in traffic load—for example, if the area is a summer resort community—measurements to determine probability of call failure must be taken during the busy season.

47. *Network Coverage.* In order to meet this aspect of the network performance prong and be eligible for automatic grant, the applicant must demonstrate that either: (i) A single replacement service reaches the entire geographic footprint of the service area subject to discontinuance; or (ii) there are multiple providers who collectively cover the entirety of the affected service area.

48. If the applicant is relying on a single replacement service, whether its own or that of a third party, eligibility for automatic grant will depend on whether it demonstrates that the replacement service reaches the entire geographic footprint of the area served by the legacy voice service. However, in service areas where the applicant relies on multiple providers' services, the applicant must demonstrate that other providers cumulatively reach all customers in the affected coverage area. In order to be eligible for automatic grant, the application must: (i) Describe with sufficient particularity the geographic scope of the replacement service(s) available from the other provider(s), or (ii) otherwise demonstrate that each of these services satisfies the criteria we adopt today. We decline to adopt a *de minimis* threshold for judging whether a replacement service offers the same coverage. We do not see a basis for drawing such a line.

49. *Access to Critical Applications and Functionalities.* Under this prong, to remain eligible for automatic grant for a technology transition discontinuance application, an applicant must certify or show that at least one replacement service complies with regulations regarding availability and functionality of 911 service for consumers and public safety answering points (PSAPs), industry standards regarding communications security, and regulations governing compatibility with assistive technologies.

50. *911 and Emergency Services.* To satisfy the second prong of the adequate replacement test and remain eligible for automatic grant, applicants must certify or show compliance with: (i) 911 accessibility and location accuracy requirements; (ii) reliability and continuity of 911 service requirements with respect to backup power; and (iii) any other applicable emergency service requirements. The basic 911 service requirement is the transmission of wireless 911 calls to the PSAP (or designated default answering point or appropriate local emergency authority) without respect to their call validation process, and without reference to location accuracy.

51. *911 Accessibility and Location Accuracy Requirements.* The applicant must demonstrate that the replacement service complies with applicable regulations regarding the availability and required functionality of 911 service. Those regulations include the rules governing: (i) 911 call delivery, service, and location; (ii) the capabilities and routing necessary for consumers' continued access to 911 emergency service; and (iii) 911 calls to PSAPs or other appropriate local emergency authorities.

52. In order to satisfy this prong of the adequate replacement test and thus remain eligible for automatic grant, the replacement service must offer a dispatchable address capability. Traditional landline service generally guarantees the provision of Master Street Address Guide (MSAG)-validated address information to ensure proper call routing, location determination, and dispatch of emergency responders. Provision of other types of location information, such as wireless 911 ALI coordinates, would not ensure that the service provides an adequate replacement for a legacy voice service. If the rules applicable to the replacement service require provision of an MSAG-validated address, the applicant may meet this requirement by certifying that its replacement service meets the 911 registered location requirements applicable to that service. However, if the 911 requirements for the replacement service do not require provision of a validated address, the applicant must further certify that it will register a validated dispatchable address for each subscriber and provide the address to the appropriate PSAP for all 911 calls. A dispatchable address is an

address that includes street name, building number, and any other information critical to dispatching emergency responders to the correct location and one that meets public safety requirements for inclusion in and verification by Automatic Location Information databases and PSAP Master Street Address Guides or their functional equivalents. If the applicant is relying on a third party service, it must make an appropriate showing that the third party service provide meets this requirement. As applicable, alternative service providers must also be compliant with other Commission rules for 911 call delivery, service, and location in order for the applicant to retain eligibility for streamlined processing. For the applicant to retain eligibility for automatic grant, those alternative service providers must also comply with any new dispatchable address/location requirements, as applicable, that the Commission may adopt in the future. Consistent with the Commission rules regarding discontinuing service to completely exit an industry, the applicant seeking streamlined processing is required to provide the same advance notice to all PSAPs in its service area, and inform the Commission that it has done so. 47 CFR 63.71. These requirements also include notifying all affected customers, the applicable state agencies, and federally recognized Tribal Nations.

53. *Backup Power.* To ensure that consumers continue to receive the benefit of continued access to 911, applicants seeking to discontinue a legacy line-powered service in favor of a newer service that lacks line-powering must certify or make a showing that at least one replacement service in the area complies with our residential backup power requirements. Alternatively, an applicant may show that another provider in the affected area offers line-powering or complies with section 12.5. Section 12.5 applies to providers of Covered Services, which are defined as "any facilities-based, fixed voice service offered as residential service, including fixed applications of wireless service, offered as a residential service that is not line powered." Section 12.5 requires providers to offer subscribers the option to purchase backup power for the Covered Service, with a minimum of eight hours of standby backup power. By February 13, 2019, such providers must also offer at least one option that provides a minimum of twenty-four hours of standby backup power. Providers must also notify consumers of the following: (1) Availability of backup power sources; (2) service limitations with and without backup power during a power outage; (3) purchase and replacement options; (4) expected backup power duration; (5) proper usage and storage conditions for the backup power source; (6) consumer backup power self-testing and monitoring instructions; and (7) backup power warranty details, if any. We are not adding to the Rule 12.5 requirements, but ensuring that a service provider's compliance with those requirements is a key consideration in whether that service represents an adequate replacement for a legacy line-powered service.

54. In order to ensure that consumers are aware of technology transitions with sufficient time to take action, we also require applicants to provide to consumers the initial notice containing the information elements of section 12.5, pursuant to section 63.71. Section 63.71(b) states that a carrier shall file its 214 application "on or after the date on which notice has been given to all affected customers." Section 63.71(d) provides that applications shall be automatically granted on the 31st day after filing an application for non-dominant carriers and the 60th day for dominant carriers, unless the Commission notifies the applicant that the grant will not be automatically effective. 47 CFR 63.71(d). Consequently, we expect that consumers will receive the initial backup power notice before the earliest possible date for grant of a section 214 discontinuance application—at least 30 days before the change occurs. Although section 12.5 requires disclosures be made at the point of sale, we anticipate that, in the context of the section 214 discontinuance process, it will not be the individual sale of a non-line powered service to a consumer that will trigger the need for notification of the backup power requirements of section 12.5, but rather the transition to a newer technology that may have different backup power capabilities. The underlying principle remains the same: Prior to initiation of a new service (whether at the point of sale or at the time of a technology transition), consumers should have the benefit of understanding how to ensure continuity of 911 service through backup power. We continue to require annual disclosures to be made as described in section 12.5, by any means reasonably calculated to reach the individual consumer.

55. We are not adding to the existing backup power requirements. In order for a service to qualify as an adequate replacement, it must abide by our existing backup power rules so that consumers receive information on backup power in advance of being transitioned to a replacement service that lacks line-power. Otherwise, the consumer could become aware of the limitations of the replacement service only when his or her 911 call does not go through during a commercial power outage.

56. *Protecting PSAP Operations.* To successfully meet this second prong, an applicant must certify or show that at least one replacement service complies with 911 network reliability requirements. This requirement will help ensure that the transition to the replacement service neither impairs the continuity of 911 service to PSAPs, nor disrupts the configurations and connectivity necessary for their 911 operations. This certification or showing imposes no new requirements and will not affect our policy work in other Commission proceedings.

57. *Communications Security.* To satisfy the second prong of the adequate replacement test and remain eligible for automatic grant, an applicant must certify or show that the replacement service offers comparably effective protection from network security risks. Satisfaction of this criterion is part of the adequate replacement test required for streamlined processing, and is not mandatory to discontinue service generally. This approach allows an applicant relying on a third party service to satisfy the adequate replacement test without requiring direct knowledge of that third party's security posture.

58. Our overarching objective is to preserve the availability, integrity, and confidentiality (AIC) of the network. Availability refers to the accessibility and usability of a network upon demand. Integrity refers to the protection against the unauthorized modification or destruction of information. Confidentiality refers to the protection of data from unauthorized access and disclosure, both while at rest and in transit. In making the certification or showing necessary to demonstrate comparably effective protection from network security risks, the applicant must evaluate: (i) Relevant cybersecurity standards and practices—whether industry-recognized or related to some other identifiable approach—the replacement service employs at the time of certification (*e.g.,* a replacement service could employ the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (NIST Framework) as a management tool to inform decisions about cyber risk analysis and organize mitigation activity

and CSRIC IV provides guidance to the Commission on communications market sector implementation of the NIST Framework); (ii) what plans (if any) the replacement service has to incorporate cybersecurity threat information sharing as a part of the replacement service's security operations; and (iii) roles and responsibilities for the replacement service's cybersecurity, both with respect to the provider but also any third parties (*e.g.,* the applicant's vendors or contractors), to promote effective accountability for privacy and security.

59. If relying on its own service, the applicant must demonstrate that the replacement service offers comparably effective protection from network security risks to remain eligible for automatic grant. That demonstration can be made in one of two ways. If the applicant's network security management practices are enterprise-wide, *i.e.,* the enterprise safeguards AIC without differentiation between services, geographic areas, or service-providing affiliates, a certification to that effect will be sufficient to demonstrate that the replacement service offers comparably effective protection from network security risks.

60. Alternatively, the applicant must show that: (i) It has evaluated any known risks and vulnerabilities of the replacement service; (ii) it has taken measures to address and mitigate the enumerated risks and vulnerabilities; (iii) it will inform consumers as part of the discontinuance notice required pursuant to section 63.71 what security measure(s) the consumers should take vis-à-vis the replacement service (*e.g.,* downloading and maintaining up-to-date anti-virus software) and other steps consumers may take to ensure safe use of the replacement service; and (iv) it will undertake best efforts to identify any vulnerable facilities (*e.g.,* fire, EMS, law enforcement and other critical infrastructure facilities) and users, and work to address and mitigate the enumerated risks and vulnerabilities (*e.g.,* the use of diverse IP paths for critical infrastructure). Where an applicant provides written guidance or Public Service Announcements to individuals or organizations in accordance with (iii) and (iv) above, the applicant should provide a generic copy of such guidance to the Commission. This certification is not a directive on how to address network security. Applicants retain flexibility regarding how to address such risks.

61. We recognize the challenges for an applicant to gain access to a third party service's cyber risk management process would be particularly acute. Therefore, an applicant relying on a third party service instead must exercise reasonable diligence to identify the security profile of the technology of the replacement service, based on the replacement technology's ability to provide availability, integrity, and confidentiality. Focusing on the established key considerations of confidentiality, integrity, and availability provides a frame of reference for identifying the risks associated with the replacement technology. We note that a security profile is not intended to identify any specific cyber risk management process or specific vulnerabilities associated with a particular third party's replacement service, but instead serves to identify the general cyber risks, from a consumer's perspective, associated with the replacement service's technology. This is a particularly effective solution for applicants relying on third party services because a security profile may be gleaned from open source information and does not require specific knowledge of the inherent security of the replacement service. While a security profile can be identified using publicly available information, it should be arrived at after the applicant undertakes an analysis centered on the availability, integrity, and confidentiality model described above under the certification approach. In this regard, the security profile can adjust to new threats and vectors as they emerge.

62. We seek to ensure that an applicant has established a sound basis for its representations about the comparable effectiveness of the protections from network security risks employed by a third-party replacement service, by exercising a reasonable degree of diligence in making those representations in light of all the facts and circumstances.

63. No carrier is required to comply with any specific network security standards. We do not dictate what measures a company must take, nor do we require that they submit potentially sensitive information to the Commission as part of their section 214 application. Rather, meeting this criterion is only necessary to satisfy the adequate replacement test, and that in turn is only required if they wish to remain eligible for automatic grant. Beyond that, the Commission has always recognized the importance of network security and agrees with commenters that it is a crucial consideration in determining whether an adequate replacement service exists. Transitioning from legacy-based services to new technologies presents new network vulnerability issues that did not exist with legacy technologies. We conclude the flexible, individualized approach we take to network security addresses concerns that applying a rigid standard would be counter-productive. Additionally, while we recognize that there is no universal cybersecurity standard to apply, we believe that there are generally accepted guidelines and best practices that carriers should consider when evaluating their own cybersecurity posture or the security profile of the replacement technology.

64. Services for Individuals with Disabilities. Under the critical applications prong, applicants will certify that at least one replacement service complies with the Commission's existing applicable accessibility, usability, and compatibility requirements governing services benefiting individuals with disabilities as a means to ensure that the replacement service offers accessibility levels at least as effective as those offered by the legacy voice service.

65. The Commission's rules regarding telecommunications-related accessibility requirements govern standards for accessibility, usability, and compatibility for: (i) Telecommunications services and functionalities; (ii) voicemail and interactive menu functionalities; and (iii) advanced communications services (ACS), defined by statute to include both interconnected and non-interconnected VoIP service. The rules obligate service providers to ensure that a service is accessible to and usable by individuals with disabilities "if readily achievable" for services subject to part 6 or 7 of the rules, and "unless not achievable" for services subject to part 14 of the rules. To remain eligible for streamlined processing, an applicant must demonstrate that any public mobile service proposed as an adequate replacement complies with sections 14.60 and 14.61 of the rules. When a standard of accessibility or usability is not achievable, service providers are required to ensure the relevant service, functionality, or application is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities. To remain eligible for automatic grant, providers also must comply with rules regarding: (i) Product design, development and evaluation; (ii) accessible information pass through; and (iii) customer access to information, documentation, and training.

66. In order to meet this factor under the critical applications prong, any new

service must provide levels of accessibility, usability, and compatibility as effective as the legacy voice service to be deemed an adequate replacement utilizing a new technology. We also expect that, due to reduced costs and heightened capabilities of next-generation services, more accessibility features and functionalities will be achievable within the meaning of our rules. Thus, we encourage carriers to proffer replacement services that have the potential to provide new accessibility features and functionalities and to make newly achievable features and functionalities available to their customers with disabilities.

67. We also remind carriers and interconnected VoIP service providers of their obligation under the existing telecommunications relay service rules to provide access to TRS, including 711 dialing access. The proposed replacement service or the alternative services available from other providers must provide such access, where required under the Commission's rules.

68. To the extent persons with disabilities need to transition to new equipment in order to maintain the same functionality or make use of improved functionality such as described above, we encourage service providers to make that transition as simple and inexpensive as possible, particularly for those who do not qualify for existing state and federal equipment distribution programs, and for those who are replacing devices not covered by equipment distribution programs. Interfaces between the network and user equipment and applications should facilitate interconnection of low-cost devices and software applications that provide accessibility.

69. We decline to impose an independent requirement with respect to real-time text (RTT) technology in this proceeding, but note that any requirements adopted in the *Real-Time Text Notice of Proposed Rulemaking* (*RTT NPRM*) docket would become part of our analysis under this factor. The *RTT NPRM* (2016 WL 1752915; 81 FR 33170–01, May 25, 2016) proposed rules defining the obligations of wireless service providers and equipment manufacturers to support RTT over IP-based wireless voice services, and establishing technical standards for minimum required functionalities, the support providers must offer for those functionalities, and timelines for implementation of this transition. The *RTT NPRM* further sought comment on whether to amend the Commission's rules to place comparable responsibilities to support RTT on providers and manufacturers of wireline IP services and equipment that enable consumers to initiate and receive communications by voice. Applicants would be required to adhere to whatever applicable RTT implementation obligations and timetables are established by any final rules adopted in the *RTT NPRM* proceeding.

70. Interoperability with Key Applications and Functionalities. Consistent with the *FNPRM,* 80 FR 57768–01, we define applications as offerings that run on TDM-based service, such as home alarm systems and modems, whereas functionalities are offerings included in the service, such as call-waiting and operator services. At the same time, we make clear that carriers are not required to provide access to these capabilities in perpetuity.

71. Identifying Key Applications. Widely adopted low-speed modem devices—in particular, fax machines, home security alarms, medical monitoring devices, analog-only caption telephone sets, and point-of-sale terminals—make up the initial list of key applications for which applicants seeking automatic grant must demonstrate that any replacement service offers interoperability. We will expect replacement services to offer compatibility with these devices until 2025, to provide time for the marketplace to migrate to new services and applications that will provide similar functions. Because the specific streamlining criteria we adopt are limited to ensuring adequate replacements for legacy voice services, it is not appropriate to adopt a low-latency option requirement. Non-voice services to which section 214(a) discontinuance obligations apply and voice services subject to section 214(a) being discontinued in non-technology transitions circumstances will continue to be subject to our pre-existing discontinuance process, which provides the public an opportunity to comment and to which our traditional five-factor balancing test applies.

72. Because the list we adopt today may not be fully inclusive of all applications and functionalities that are significantly valued by stakeholders, we also adopt a process to supplement this list. We direct the Office of Engineering and Technology, working in consultation with the Wireline Competition Bureau and the Wireless Telecommunications Bureau (together, the Bureaus), and subject to the guidelines below, to seek comment and, based on the record developed, propose additions to the list of key applications and functionalities adopted above for Commission review and approval. Within three months of the effective date of the order, the Bureaus will release a public notice inviting consumers and industry stakeholders to indicate whether additional functionalities and applications should be added to the list. The Bureaus will also engage in outreach to solicit input from consumer and industry groups.

73. Relevant considerations in determining whether an application or functionality retains value to consumers in the marketplace such that it should be made interoperable with any replacement include whether: (i) Customers rely on the application or functionality for health or safety reasons; (ii) the application or functionality is used as a wholesale input by other providers; (iii) the application or functionality relies on vendor equipment or inputs that have been discontinued; and (iv) the service provider, as opposed to the end-user customer, is the least-cost avoider. In this context, either the applicant or certain types of end users face costs to maintain compatibility with certain applications in the event of technological change in the applicant's provision of telecommunications services. The least cost avoider is whichever of these two parties faces the least costs of adapting to the technological change. Thus, the applicant would be the least cost avoider if the cost of making adjustments to its upgraded service would allow existing applications to continue to operate were much lower than the aggregate costs to end users of updating their applications.

74. The first "health and safety" factor will determine whether consumers are using or ordering an application or functionality based on a TDM service and their relative significance in those consumers' lives. We identified medical monitoring devices and home security alarms as the type of health and safety applications that remain key in the marketplace. The second factor focuses on the consumers who subscribe to an application or functionality from a provider who relies on the TDM-based service being discontinued. The third factor focuses on whether an application or functionality is outdated or operating on equipment that is obsolete. The fourth and final factor will look at whether the applicant or the end-user customer is able to address the interoperability concerns at the least cost.

75. We recognize that interoperability considerations will likely change over time. For that reason, we also conclude it important to review regularly the list of key applications to determine

whether elements of that list no longer are key. We direct staff to examine this list as part of each internal biennial review of agency regulations. We also direct the Bureaus to propose changes or updates to the Commission, in particular to remove any applications or functionalities that may become obsolete. The Bureaus will continue their biennial review of the key applications and functionalities list and certification requirements through the year 2025, at the end of which the Bureaus will advise the Commission whether the list remains necessary given the status of technology transitions.

76. Satisfying the Interoperability Standard for Key Applications. To maintain eligibility for potential automatic grant status, covered applicants must certify or show that a replacement service offers interoperability and compatibility of the replacement service with the list of key applications and functionalities. Conversely, applicants will not be required to demonstrate interoperability with applications and functionalities that are not on the list adopted today or as modified in the future.

77. When seeking a section 214 discontinuance, applicants should only certify compliance with this prong if the replacement service allows the key application to function or perform in a substantially similar manner as it did on the legacy voice service. Demonstrating applications' adherence to established technical standards would be influential in demonstrating achievement of the compliance criteria discussed above. Although we decline to adopt any specific standards, such as the as the ITU T.38 standard, or the Managed Facilities-Based Voice Network (MFVN) standards, adherence to these standards would be persuasive evidence of compliance with this prong should the underlying certification be challenged. We also note that 64-kbps encoding in accordance with ITU G.711 standard would allow a replacement service, such as a wireless replacement, to carry any signal that a customer can use today with a legacy TDM service. Lower bit rate signals cannot carry all the information carried in a 64-kbps signal and therefore 64-kbps encoding in accordance with ITU G.711 would support applications such as fax, credit card transactions, and medical monitoring. This would also be persuasive evidence of compliance. The Commission also supports any further industry testing efforts.

78. The approach we announce today will sunset in 2025, at which point the interoperability requirement will no longer be part of our section 214 analysis. By that time, consumers will have had ample time to transition to newer functionalities and applications. Until then, of course, parties are always free to request changes by petition or submissions in the biennial review process.

79. Other Issues Regarding the Adequate Replacement Test. We also sought comment on whether to include: (i) A partial or full exemption from the adequate replacement test for rural LECs, and (ii) affordability as a separate criteria under the test.

80. No Rural LEC Exemption. We decline to provide any rural LEC exemption because rural LECs have offered no compelling justification as to why these criteria would not be just as beneficial to their customers as they would be to the customers of other 214 discontinuance applicants in demonstrating the adequacy of replacement services. However, we are exempting small businesses, including rural LECs that satisfy the standard for this designation, from the network testing requirements we adopt today to remain eligible for automatic grant.

81. We emphasize that the Commission is committed to supporting quick and efficient transitions to IP in rural areas, and we do not burden rural LECs uniquely or excessively. Nevertheless, we find that rural consumers, with often limited choice in service providers, should equally benefit from full consideration of the adequacy of any replacement service to ensure continued network performance and service quality, as well as access to critical applications, and interoperability with valued services.

82. *Affordability*. The evaluation of how potential price increases for alternative services could impact consumers is a critical part of the traditional five-factor test for evaluating discontinuance applications. When applying the traditional five-factor test to determine whether a discontinuance would adversely affect the public convenience and necessity, the Commission can fully evaluate issues involving price and assess the needs of consumers who may only have access to a more expensive replacement service as part of a technology transition. We appreciate commenters' suggestions on possible ways to evaluate price increases in the context of the technology transitions. When called upon to apply this standard in the context of technology transitions, the Commission's focus will be on the price to consumers before and after a discontinuance resulting from transition to a newer technology. Numerous carriers have touted the reduced costs and improved capabilities of their next-generation services and networks, and we anticipate that we will see those benefits accrue to consumers.

83. We nonetheless acknowledge the concerns expressed in the record about the potential for increased prices to customers for replacement services due to technology transitions, and emphasize that the Commission is committed to ensuring that technology transitions do not unduly impact our most vulnerable citizens. A coalition of public interest and civil rights groups urges that we require applicants to conduct an impact assessment of the discontinuance on low-income people and people of color. We decline to mandate such an impact analysis requirement as part of our framework for streamlined processing because we consider it unduly burdensome on applicants. Congress expressed its intent in the Act to make available communications service to "all the people of the United States," and more recently, in the Telecommunications Act of 1996, Congress asserted the principle that rates should be "affordable," and that access should be provided to low-income consumers in all regions of the nation. More broadly, we are taking actions to promote affordability of next-generation services in a variety of proceedings. We recently modernized our Lifeline program by taking a variety of actions that work together to encourage more Lifeline providers to deliver supported broadband services as we transition from primarily supporting voice services to targeting support at modern broadband services. In approving Charter's acquisition of Time Warner Cable and Bright House, the Commission imposed a condition requiring the combined company to make available a discounted broadband service for low-income consumers. In the order approving the AT&T/DIRECTV transaction, the Commission required as a condition of this transaction that the combined company make available an affordable, low-price standalone broadband service to low-income consumers in the combined AT&T/DIRECTV wireline footprint. Altice and Cablevision also committed to providing a low-income broadband package to all eligible customers in Cablevision's footprint within fifteen months after closing. Under the Commission's rules, recipients of high-cost universal service support are required to offer voice and broadband services at rates that are reasonably comparable to offerings of comparable services in urban areas. Consistent with these statutory

objectives, affordability has always been—and will continue to be—a critical component of the Commission's determination as to whether a particular discontinuance request is consistent the Commission's obligation to ensure the public interest is protected.

84. Nothing we adopt today limits that obligation. While we do not include affordability as a separate criterion under the adequate replacement test we adopt today, affordability remains a critical part of the Commission's underlying evaluation of discontinuance requests. Therefore, the cost of replacement services will be considered both before issuing the Public Notice and during the comment period. Bureau staff review applications for completeness, accuracy, and fulfillment of all predicate requirements, including providing notice to affected customers, before issuing the Public Notice. In order to be considered for streamlined processing, applicants must include information about the price of replacement services compared to the legacy service in their application. The Bureau will not place an application on streamlined processing if there is a material increase in price for the replacement service compared to the service to be discontinued. Moreover, consumers affected by potential discontinuances and their advocates will continue to have the opportunity to offer comments and objections in the streamlined process. Should we receive evidence of material price increases for comparable services, particularly those with a disproportionate impact on vulnerable populations, we would remove that application from consideration for automatic grant.

85. Certain commenters also contend that the adequate replacement test should include a requirement that the discontinuance will not result in the loss of Lifeline service. We emphasize that the test we announce today does not change or disturb in any way the eligible telecommunications carrier (ETC) obligations of any incumbent carrier to offer Lifeline service. In the recent *Lifeline Reform Order,* the Commission concluded that if an incumbent LEC is the only Lifeline provider in a given census block, it retains the ETC obligation to offer voice service. That requirement exists independent of the section 214 discontinuance process. Thus, if there is no other Lifeline provider in the community for which discontinuance is sought, the incumbent LEC cannot terminate voice service to Lifeline subscribers, and it must continue to offer Lifeline voice service to any qualifying Lifeline household.

86. *Other Issues Related to the Discontinuance Process.* Consumer Education. Discontinuance of an existing service on which customers rely creates a need for customer education. To help ensure seamless transitions, we conclude that an applicant must offer adequate customer education materials and outreach plans when discontinuing a service as part of a technology transition. We wish to establish guidelines, not impose an unduly rigid mandate that forecloses flexibility. Nonetheless, those guidelines need to be clear enough to allow applicants to understand how to achieve compliance. To be clear, this consumer education requirement applies to the same universe of discontinuance applications as the new adequate replacement test, and the procedures governing all other discontinuance applications are undisturbed.

87. An adequate customer outreach plan must, at a minimum, involve: (i) The development and dissemination of educational materials provided to all customers affected containing specific information pertinent to the transition, as specified in detail below; (ii) the creation of a telephone hotline and the option to create an additional interactive and accessible service to answer questions regarding the transition; and (iii) appropriate training of staff to field and answer consumer questions about the transition. All aspects of the consumer outreach plan, including the educational materials, the telephone hotline, and a carrier's contact information must be provided in accessible and usable formats. To ensure that customers understand the notice that they receive, any applicant who in the ordinary course of business regularly uses a language other than English in its communications with customers must provide the education materials to customers in both English and that regularly used language. The Commission will consider a carrier's certification of its compliance with these requirements as part of its overall analysis of whether granting the application would be in the public interest.

88. Similar to the DTV transition outreach requirements, the required educational materials to customers may be provided as a "bill stuffer," an information section on the bill itself, or as a discrete communication sent in the manner most commonly used to communicate with the customer. We recognize that certain customers do not receive a monthly bill (*e.g.,* those using auto-payment plans), and thus provide a separate option. As billing practices change over time, the way in which customers receive educational materials is subject to change as well. The materials must be delivered in accessible and usable formats and include, at minimum: (i) A general description of the changes to the service, written in a non-technical manner that can be readily understood by the average consumer; (ii) the impact on existing applications and functionalities that are liked to be purchased by individual customers, including whether such applications, and functionalities will be available following the transition; (iii) any change in the price of the service and impact on applications and functionalities which run on the service to be discontinued; and (iv) points of contact who will address technology transitions issues, as much as is practicable. We recognize that third parties unrelated to the applicant provide many applications that run on the service. We would encourage third parties to cooperate with these consumer education efforts, but acknowledge that access to third party information may not be possible. If the applicant is relying on a third party service, we will further require the applicant to provide: (i) Contact information for that third party and (ii) upon inquiry from a consumer, information regarding the interoperability and compatibility of applications benefiting individuals with disabilities that run on the applicant legacy voice service.

89. We also encourage, but do not require, applicants to submit their consumer education materials to the relevant state commission(s) and/or Tribal government. We emphasize that there is an important role for state commissions and Tribal governments in promoting consumer education around the discontinuance of legacy voice services. As we noted in the *Emerging Wireline Order* in the context of copper retirement, states traditionally have played a critical role in consumer protection, and we strongly encourage carriers seeking to discontinue legacy voice services to partner with state public service commissions, Tribal entities, and other state and local entities to ensure consumers understand and are prepared for the transition. We will not, however, impose a mandate regarding outreach to state commissions and Tribal entities, because we believe it would unduly burden both industry and state and Tribal entities.

90. The applicant is required to provide an accessible telephone hotline staffed at least 12 hours per day, including between the hours of 9 a.m. and 5 p.m., to answer questions

regarding the discontinuance, as some individuals with disabilities cannot afford Internet access, or may lack a reliable means of Internet access in their area. The applicant also has the option to additionally provide other interactive and accessible services (*e.g.,* an online chat with a customer service representative) to answer questions regarding the discontinuance.

91. An applicant must designate staff trained to assist consumers with disabilities with the complex disability access issues related to the transition. The method for contacting these staff must be posted on an applicant's Web site. To accommodate consumers who may not be able to access the Internet, such contact information should be also publicized via alternate means that are up to the applicant's discretion, such as in the required education materials included with billing statements, promotional materials, or publications disseminated by national consumer organizations.

92. *Email Notice.* We revise our rules to explicitly permit carriers to provide customers notice of discontinuances via email where those customers have previously agreed to receive notice from the carrier by that method. The Commission's rules currently require a carrier planning to discontinue, impair, or reduce service as defined under section 214 of the Act to notify all affected customers, the governor of the state affected, that state's public utility commission, and the Secretary of Defense. A copy of the relevant section 214 application also must be submitted to the public utility commission, governor, and secretary of defense. In the *FNPRM,* 80 FR 57768–01, the Commission sought comment on whether to revise these rules to allow email-based or other forms of electronic notice of discontinuance to customers, including whether alternative forms of notice should be permissible only with customer consent and, if so, what methods to obtain consent should be permissible.

93. The record confirms our belief that email is the preferred method of notice for many carriers seeking discontinuance, as well as for consumers. We also explicitly permit carriers to provide notice by any other alternative method to which the customer has previously agreed. We decline, however, to afford carriers the blanket ability to give notice to customers in whatever form those carriers believe is most efficient, regardless of whether the customer has agreed to that method. In both instances, the same provisos adopted in connection with the recently-adopted copper retirement rules shall apply. For example, notice must be made in a clear and conspicuous manner; and may not contradict or be inconsistent with any other information with which it is presented. In addition, (a) the incumbent LEC must have previously obtained express, verifiable, prior approval from retail customers to send notices via email regarding their service in general, or planned network changes in particular; (b) an incumbent LEC must ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and (c) any email notice returned to the carrier as undeliverable will not constitute the provision of notice to the customer.

94. *Notice to Tribal Governments.* We revise our rules to require all carriers to provide notice of discontinuance applications to any federally-recognized Tribal Nations with authority over the Tribal lands in which the discontinuance, reduction, or impairment of service is proposed, in addition to the notice already required to state PUCs, state Governors, and the Department of Defense. This outcome aligns the notice requirements for section 214 discontinuance applications and copper retirement network changes, imposes the same requirement on all carriers serving Tribal lands, and places Tribal governments in all states in a position to prepare and address any concerns from consumers in their Tribal communities.

95. *Timing of Notice.* Unlike the *Emerging Wireline Order,* where the record on the copper retirement notice period reflected numerous instances in which competitors and their customers suffered actual harm due to the notice period, commenters in this proceeding have not offered specific evidence of actual harm caused by the discontinuance notice provisions in section 63.71. We therefore decline to revise section 63.71 to require advance notice of a planned discontinuance or to lengthen the discontinuance process by changing the existing timeline for filing objections and/or allowing automatic grant. We nonetheless recognize that large-scale technology transition-related discontinuances have not yet occurred. Thus, while we do not take action today to revise section 63.71, we emphasize that the Commission may revisit this issue if presented with evidence of such a need in the future.

96. *Non-Substantive Change to Code of Federal Regulations.* Our current rules require that public notices of network changes, which include copper retirement notices, be labeled with one of a variety of enumerated titles, "as appropriate." In the *Emerging Wireline Order,* we adopted a unique set of network notification requirements specific to incumbent LEC retirement of copper facilities. However, none of the titles enumerated in section 51.329(c) relate specifically to copper retirement notices. To alleviate this potential confusion and to allow the public to readily differentiate copper retirement notices from all other types of network change disclosures, we adopt two new titles to those already included in section 51.329(c): "Public Notice of Copper Retirement Under Rule 51.332" and "Certification of Public Notice of Copper Retirement Under Rule 51.332."

97. *Clarification of Copper Retirement Notice Rules.* Under the recently adopted revised copper retirement rules, copper retirement notices to retail customers must include "[t]he name and telephone number of a contact person who can supply additional information regarding the planned changes." Those same notices must also include "a toll-free number for a customer service help line" in the requisite neutral statement of the services available to the incumbent LEC's retail customers. To alleviate potential confusion regarding whether an incumbent LEC must include the name and phone number of a specific individual in copper retirement notices in addition to a toll-free number for a customer service center, we clarify that copper retirement notices to enterprise customers must include the name and address of a contact person who can provide additional information regarding the planned change, as required by section 51.327(a)(2). Enterprise customers are all business customers other than those considered very small. For copper retirement notices to mass market customers, however, inclusion of the toll free number for a customer service help line required by section 51.332(c)(2)(i)(C) will be sufficient to satisfy the requirements of section 51.327(a)(2). Mass market customers consist of residential customers and very small business customers. Very small businesses typically purchase the same kinds of services as do residential customers, and are marketed to, and provided service and customer care, in a similar manner.

98. *ORDER ON RECONSIDERATION.* In response to a Petition for Reconsideration filed by TelePacific, we revise the Commission's rules to make a competitive LEC's application for discontinuance deemed granted on the effective date of any copper retirement that made the discontinuance unavoidable, so as long as the

discontinuance application is filed at least 40 days prior to the retirement effective date. This will address a gap in our rules that left competitive LECs potentially vulnerable to violating our discontinuance rules for reasons entirely outside of their control.

99. *Background.* The Commission addresses changes in carriers' facilities and changes to their services through separate rules. Changes to a carriers' facilities are subject to the Commission's network change disclosure rules, which are notice-based. Changes to a carrier's service, however, are subject to the Commission's service discontinuance rules, which require Commission approval. All references to the section 214 discontinuance process encompass the reduction or impairment of service under section 214 as well.

100. In the *Emerging Wireline Order,* the Commission revised its copper retirement notice rules to require 180 days' advance notice to interconnecting entities and non-residential retail customers and 90 days' advance notice to residential retail customers. Under the prior rules, a carrier could provide as little as 90 days' notice of a planned copper retirement to interconnecting telephone exchange service providers, and it was not required to provide any notice to retail customers.

101. On November 18, 2015, U.S. TelePacific Corp. (TelePacific) filed a Petition for Reconsideration of the *Emerging Wireline Order* to address what it perceives to be a gap between the Commission's copper retirement and discontinuance processes that could require a competitive LEC to seek Commission authorization to discontinue broadband service to its end user customers when a planned retirement would cause the loss of access to copper facilities over which it provides broadband service.

102. Among other problems, TelePacific could unavoidably find itself out of compliance with the Commission's rules if the copper retirement becomes effective and the incumbent LEC cuts off access to its copper before the Commission approves TelePacific's discontinuance application.

103. The Commission's rules require that a carrier file its section 214 discontinuance application "on or after the date on which notice has been given to all affected customers." The rules provide for automatic grant of applications on the 31st day after filing for non-dominant carriers and the 60th day after filing for dominant carriers, unless the Commission removes the application from streamlined processing. The Commission may in its discretion remove the discontinuance application from streamlined processing. Thus, the application could remain pending at the time the copper retirement becomes effective. These potential outcomes, TelePacific contends, arise from an unintended defect in the competitive safety net the Commission created in the *Emerging Wireline Order* by the combination of the 180-day copper retirement notice period and the interim reasonably comparable wholesale access rule.

104. To address potential harm to its competitors and consumers, TelePacific recommends either: (i) Automatically granting a section 214 application on the date of a copper retirement, as long as the application is submitted at least 60 days before implementation of a copper retirement; or (ii) "requir[ing] a delay in the copper retirement until the competitive LEC's discontinuance no longer creates 'an unreasonable degree of customer hardship.'" There is currently no mechanism for delaying a copper retirement, assuming the incumbent LEC's notice complies with the Commission's rules.

105. *Discussion.* We revise the Commission's rules to harmonize the discontinuance and newly-revised copper retirement processes. Accordingly, if a competitive LEC files a section 214(a) discontinuance application based on an incumbent LEC's copper retirement notice in situations where the incumbent is not discontinuing TDM-based service, the competitive LEC's application will be automatically granted on the effective date of the copper retirement as long as it satisfies two conditions. First, the competitive LEC's discontinuance application must be submitted to the Commission at least 40 days before the incumbent LEC's copper retirement effective date. Section 63.71(e) of the Commission's rules provides that "an application will be deemed filed on the date the Commission releases public notice of the filing." For purposes of the requirement we adopt today, the 40 days will be measured from the date of submission for filing rather than on the date the application is deemed filed under section 63.71(e). Second, the competitive LEC's discontinuance application must contain a certification that the basis for the application is the incumbent LEC's planned copper retirement. Under this new requirement, competitive LECs will have more than four months to consider the implications of the planned copper retirement and weigh their alternatives.

106. As discussed above, the copper retirement and discontinuance processes are distinct, the former based on notice and the latter on approval. We conclude this approach strikes the right balance and harmonizes the two processes. A competitive LEC will not be faced with a pending discontinuance application after it loses access to copper following a copper retirement, and incumbent LECs maintain certainty in the timing of their copper retirements. We therefore grant in part TelePacific's petition.

107. However, we deny the portion of the Petition that seeks broader relief. Indefinitely delaying a planned copper retirement is an untenable option. In the *Emerging Wireline Order,* we noted that "retaining a time-limited notice-based process ensures that our rules strike a sensible and fair balance between meeting the needs of interconnecting carriers and allowing incumbent LECs to manage their networks." Thus, in extending the copper retirement notice period, we rejected the opportunity to provide for a notice period longer than six months. Creating the potential for an indeterminate period of time before an incumbent LEC can proceed with a planned copper retirement would insert delay and uncertainty into the process and might deter deployment of next-generation technologies, thus undermining the balance we sought to attain when adopting the 180-day copper retirement notice period. Indeed, delaying copper retirements until any unreasonable degree of hardship to a competitive LEC's customers is eliminated would transform the copper retirement process from notice-based to approval-based. Because the Act requires only that incumbent LECs "provide reasonable public notice" of network changes such as copper retirements, we rejected such a result in the *Emerging Wireline Order.* We reaffirm that conclusion here.

108. Although delaying a copper retirement would provide carrier-customers and end user customers with the additional time they need to consider their options and take steps to minimize disruption of service and might even prevent the need for a competitive LEC to file a preemptive section 214 application, this also would create a subjective standard with resulting uncertainty in timing for the incumbent LEC such that it would not be able to plan the specific timeframe of its network changes with confidence. This in itself might discourage or delay certain technology transitions, contrary to the Commission's commitment to support and encourage the deployment of innovative and improved communications networks.

109. *Paperwork Reduction Act Analysis.* The Second Report and Order contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. In this present document, we: (1) Require carriers to demonstrate that a service is an adequate replacement for a legacy voice service by certifying or showing that one or more replacement service(s) offers each of the following: (i) Substantially similar levels of network infrastructure and service quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications for individuals with disabilities remain effective; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors; (2) explicitly permit carriers to provide customers notice of discontinuances via email where those customers have previously agreed to receive notice from the carrier by that method; (3) require carriers to provide notice of planned discontinuances to Tribal governments in the state in which the discontinuance is proposed; (4) require carriers to provide pricing information about the applicant service subject to discontinuance and the proposed replacement service; and (5) require carriers to provide an adequate consumer outreach plan and accompanying consumer education materials when discontinuing legacy retail services. We also revise section 51.329(c) of the Commission's rules to include two new titles that may be used to label public notices of network changes. And in the Order on Reconsideration, we revise the Commission's rules to provide that if a competitive LEC files a section 214(a) discontinuance application based on an incumbent LEC's copper retirement notice without an accompanying discontinuance of TDM-based service, the competitive LEC's application will be automatically granted on the effective date of the copper retirement as long as (1) the competitive LEC submits its discontinuance application to the Commission at least 40 days before the incumbent LEC's copper retirement effective date, and (2) the competitive LEC's discontinuance application contains a certification that the basis for the application is the incumbent LEC's planned copper retirement. We have assessed the effects of these requirements and find that any burden on small businesses will be minimal because: (1) We do not require carriers to conduct testing or otherwise meet the criteria we adopt today; (2) carriers already conduct testing when developing their networks; (3) once a carrier completes testing of a next-generation service and successfully obtains automatic grant, it need not provide testing results again if it files an application involving a substantially similar replacement service; (4) we include a small business exemption from the testing requirements; (5) we are not imposing new standards of service on carriers seeking to discontinue existing services; (6) we are permitting carriers to provide notice to customers by means through which the customer has already agreed to receive communications from the carrier; (7) the notice that carriers must provide to Tribal governments is the very same notice they must already provide to the public utility commission and to the governor of the state in which the discontinuance, reduction, or impairment of service is proposed, and to the Secretary of Defense; (8) carriers must already appropriately label their network change disclosures; and (9) we address a gap in our rules such that now a competitive LEC will not be faced with a pending discontinuance application after it loses access to copper following a copper retirement and incumbent LECs maintain certainty in the timing of their copper retirements.

110. *Congressional Review Act.* The Commission will send a copy of this Second Report and Order and Order on Reconsideration to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

111. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission included an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in the *Emerging Wireline Order and FNPRM* in GN Docket No. 13–5, 80 FR 57768–01. The Commission sought written public comment on the proposals in the *FNPRM,* including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

112. Need for, and Objectives of, the Final Rules. In the *Emerging Wireline Order and FNPRM,* 80 FR 57768–01, the Commission emphasized the importance of speeding market-driven technological transitions and innovations while preserving the core statutory values as codified by Congress: Competition, consumer protection, universal service, and public safety. In this Order, we further those values by updating our review and notice procedures governing the filing and review of technology transitions discontinuance applications filed pursuant to section 214 of the Act. Furthering these core values will accelerate customer adoption of technology transitions. The Order adopts rules that will appropriately manage the technology transitions, and develop the right framework for new technologies. To fulfill the Commission's goal of stripping away the outdated and unnecessary, we have provided common sense solutions in the interim until this as yet not fully formed new technology regime emerges.

113. In this Order, we define our expectations for what the public interest will require before a carrier can take a legacy voice service off the market and refine our section 214 discontinuance notice requirements to ensure that the public is aware of and prepared for such transitions. The action we take is in the public interest as we are providing certainty to carriers, thereby advancing technology transitions.

114. *Technology Transitions Discontinuance Applications.* In the context of discontinuance applications related to technology transitions, the public interest requires that applicants filing to discontinue a legacy TDM-based voice service as part of a transition to a new technology, whether IP, wireless, or another type (technology transition discontinuance applicants) must identify in the application that a technology transition is implicated. Unlike traditional discontinuance applications, in order to retain eligibility for streamlined processing and potential automatic grant, the Order requires that technology transition discontinuance applicants submit with their application either a certification or a showing as to whether an adequate replacement exists in the service area. Applicants also must submit price

information about the service subject to discontinuance and the proposed replacement service.

115. Specifically, the Order requires that an applicant for a 214 discontinuance demonstrates that a service is an adequate replacement for a legacy voice service by certifying or showing that one or more replacement service(s) offers each of the following: (i) Substantially similar levels of network infrastructure and service quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications for individuals with disabilities remain available; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors.

116. Technology transition applicants can either demonstrate compliance with these objective criteria or make a demonstration that, despite not being able to meet the criteria, the totality of the circumstances demonstrates that an adequate replacement nonetheless exists. Applicants either (i) certifying or (ii) demonstrating successfully through their showing that an adequate replacement exists remain eligible for automatic grant pursuant to section 63.71(d) of the Commission's rules as long as the existing requirements for automatic grant are satisfied. To ensure that consumers receive the integrated service experience they need and deserve, the Order requires that a single service (whether first- or third-party) satisfy all three prongs of the adequate replacement test in order to be eligible for automatic grant.

117. The Order explains that if an applicant cannot certify or make that showing, or declines to pursue the voluntary path of streamlined treatment, it must include in its application an explanation of how their proposed discontinuance will not harm the public interest with specific reference to the five factors the Commission traditionally considers. The Bureau, acting on delegated authority, will then weigh that information as part of the traditional multi-factor evaluation, but with the adequate replacement factor subject to increased scrutiny under the newly enhanced test.

118. The Order rejects calls from incumbent LECs to presume that particular technologies, by their nature, represent an adequate replacement for legacy voice services in all instances. Our public interest analysis demands that applicants provide objective evidence showing a replacement service will provide quality service and access to needed applications and functionalities. At the same time, we recognize the importance of promoting speedy transitions. Therefore, the Order allows a for a more streamlined approach for discontinuances involving services that are substantially similar to those for which section 214 discontinuance has previously been approved. Commenters will have the opportunity to rebut an applicant's planned reliance on a previous application if they can offer substantial evidence that the technology or network infrastructure are not in fact substantially similar to the service subject to the certifications in the previous application or the certifications have been proven unreliable, based on significant consumer complaints or new independent data. The practical effect of this rule is to allow the applicant to bypass the performance testing requirements. This streamlined approach benefits applicants, while protecting the interests of all stakeholders, industry and consumers.

119. The Order further streamlines the section 214 process in instances where consumers no longer subscribe to legacy voice services. Although this rulemaking is focused primarily on technology transitions, the Commission emphasizes the market is constantly evolving, even outside the context of these crucial transitions. For that reason, the Commission adopts AT&T's commonsense proposal that a section 214 discontinuance application be eligible for automatic grant without any further showing if the applicant can demonstrate that the service has zero customers in the relevant service area and no requests for service in the last six months.

120. The Order also rejects incumbent LECs' contention that we should establish timelines for reviewing applications that are not eligible for automatic grant. The Order rejects this request because the public interest demands that we provide appropriate scrutiny and careful review to discontinuance applications related to technology transitions given their novelty and complexity, and we cannot guarantee at this time how long that process will take. Such timelines could force the Commission to shortchange its responsibility to ensure that technology transitions result in high service quality and successful customer experiences.

121. The Order finds that both first and third party services should be eligible as potential adequate replacement services. The Order concludes that applicants relying on a third party service should be allowed to make a *prima facie* showing based on publicly available information as to whether the third party service meets our test as an adequate replacement. The Order emphasizes that the adequate replacement test is only part of the public interest analysis, and the Commission will take into account an applicant's faultless inability to access necessary data and information from a third party when reviewing any application that relies on the existence of third party services to meet the adequate replacement test. An objector to a section 214 application relying on a third party service must rebut the *prima facie* showing made by the applicant. Should the objector raise legitimate concerns, the Commission will remove the application from consideration for automatic grant. In attempting to rebut such a showing, members of the public who use the third party service can agree to participate in tests necessary to measure network performance, as required under the criteria.

122. The Order declines to provide any rural LEC exemption. The order concludes that rural consumers, with often limited choice in service providers, should equally benefit from full consideration of the adequacy of any replacement service to ensure continued network performance and service quality, as well as access to critical applications, and interoperability with valued services. Moreover, the Order concludes that rural LECs have offered no compelling justification as to why the adequate replacement criteria would not be just as beneficial to their customers as they would be to the customers of other 214 discontinuance applicants in demonstrating the adequacy of replacement services. However, as discussed below, we are exempting small businesses, including rural LECs that satisfy the standard for this designation from the network testing requirements we adopt today to remain eligible for automatic grant.

123. The Order does not include affordability as a separate criterion under the adequate replacement test but states that the cost of replacement services will be considered during the application review process. The Order concludes that if there is a material increase in the price for the replacement service compared to the service to be discontinued, the Bureau will not place the application on streamlined processing.

124. *Adequate Replacement Test.* After adopting the general framework, the Order details a three-prong adequate

replacement test that enables potential automatic grant of a discontinuance application. We emphasize that no carrier *must* meet these criteria or conduct testing. Also, the adequate replacement factor is merely one part of a multifactor balancing test, and the benchmarks associated with the criteria provide guidance to carriers and a path toward automatic grant of their technology transitions discontinuance applications. We also emphasize that once a carrier completes testing of a next-generation service and successfully obtains automatic grant, it need not conduct testing again if it files an application involving a substantially similar replacement service.

125. *Prong One: Network Infrastructure and Service Quality.* First, consumers expect and deserve a replacement for an applicant service that will provide comparable network quality and service performance. Therefore, the Order requires that to satisfy the first prong of the adequate replacement test and thus remain eligible for automatic grant, an applicant must demonstrate that a service or combination of services provides: (a) Substantially similar network performance as the service being discontinued, which involves satisfying benchmarks for latency and data-loss; (b) substantially similar service availability as the service being discontinued, which involves satisfying a benchmark of 99.99 percent availability calculated by using data regarding customer trouble reports, the average repair interval in responding to those reports, the number of lines in the service area, and the duration of the observation period; and (c) coverage to the entire affected geographic service area, which involves demonstrating that either: (i) A single replacement service reaches the entire geographic footprint of the service area subject to discontinuance, or (ii) there are multiple providers who collectively cover the entirety of the affected service area. The Order interprets "substantially similar" in this context to mean that the network operates at a sufficient level with respect to the metrics identified in the Order, such that the network platform will ensure adequate service quality for time-sensitive applications, and support applications and functionalities that are associated with these services.

126. *Network Performance.* The Order finds that 30 days of network performance testing is necessary, at least initially, to ensure that applicants actually meet the benchmarks we have established to be eligible for automatic grant and to ensure that the network is in a stable state and to allow for long-term projection of network infrastructure performance. The Order emphasizes that network performance has long been a hallmark of this country's communications networks and that must continue during the technology transitions. The Order specifies the testing methodology to be used in measuring network performance in order to avoid confusion and argument over the merits of particular results reported by carriers in their discontinuance applications. Moreover, established testing parameters will ensure that the Commission analyzes similar data sets from applicants in the technology transitions. While the Order provides some flexibility in the testing parameters an applicant will use, the Commission will include in its evaluation of the discontinuance application whether the testing conditions used were appropriate to measure performance. Thus, in addition to testing results, the Commission will consider the testing parameters as a factor in determining whether it needs to remove the application from streamlined processing. If the testing parameters raise sufficient concerns such that the Commission removes the application from streamlined processing, the Commission will then consider those testing parameters in any totality of the circumstances analysis of the adequacy of the replacement network.

127. The Order provides smaller carriers more flexibility in how they demonstrate network performance under this prong of the three-prong test. We recognize that network testing under the parameters established in Appendix B could be more difficult for smaller carriers and relatively speaking burdensome, given the more limited number of customers. Thus, the Order concludes that carriers with 100,000 or fewer subscriber lines, aggregated across all affiliates, may remain eligible for automatic grant without compliance with the specific testing requirements of the network performance criterion we articulate today. We further note that this exemption from complying with the specific testing parameters announced herein does not apply to any rate-of-return carrier that is affiliated with a price cap carrier. The Order does not extend this exemption to any other components of the adequate replacement test we adopt today, including both of the other aspects of the network infrastructure prong (service quality and network coverage) or the other two prongs of the test.

128. *Service Availability.* The Order concludes that a 99.99 percent service availability standard, calculated according to the formula and parameters established in the Order, is a reasonable approach to ensure that a replacement service presumptively provides substantially similar service as the service being discontinued. The Order adopts a test that consists of a standard formula traditionally used by industry to measure telephone service availability for which the Order defined the variables to ensure accuracy and that all discontinuing carriers are measuring the same information. The replacement service's availability will be calculated using data regarding customer trouble reports, the average repair interval in responding to those reports, the number of lines in the service area, and the duration of the observation period to reach a representative measurement of a "four 9s" benchmark used to measure service availability. The Order concludes these variables will provide the best measure of customers' ability to access their provider's network. And, as with the network performance testing, the Order requires a 30-day observation period to ensure network stability and allow for long-term projection of network reliability.

129. Certain non-packet wireless access technologies providing fixed services can experience the failure of voice calls because of network congestion. To address this potential issue, we establish a metric that applies solely to these technologies for determining the frequency of congestion-based voice call failure, meaning the probability that a customer trying to make a call will be unable to do due to network congestion. We conclude that, to satisfy this benchmark and remain eligible for automatic grant, the probability must be less than one percent during the daily peak busy hour for at least 95 percent of the 30 days in the measurement period, for this type of network to serve as an adequate replacement for a legacy voice service. Non-packet wireless access technologies used to provide fixed services are of particular concern here because, unlike service over copper loops which is dedicated to one subscriber, the radio access network is shared by multiple subscribers. The network could thus conceivably lack adequate capacity and result in an unacceptable level of failed calls due to congestion.

130. Establishing a benchmark for service availability protects consumers, schools, libraries, healthcare facilities, utilities, and small- and medium-sized businesses, all of which depend on a service to be available when needed for everyday or emergency use. Past experiences, including what occurred

on Fire Island after Superstorm Sandy, demonstrate the importance of reliability as we undergo technology transitions. We now find that a service availability benchmark will help provide interested stakeholders with clear, objective "criteria that will eliminate uncertainty that could potentially impede the industry from actuating a rapid and prompt transition to IP and wireless technology."

131. *Network Coverage.* The Order requires that to meet this prong and thus be eligible for streamlined processing, a replacement service must be available to all affected customers covering the entire geographic scope of the service area subject to the application and actually function as intended for affected customers, or else it cannot be certified as a replacement service for those customers. Specifically, in order to be eligible for automatic grant, the application must describe with sufficient particularity the geographic scope of the replacement service(s) available from the other provider(s) and must otherwise demonstrate that each of these services satisfies the criteria we adopt today. This requirement promotes the core values established by the Act, including that of ensuring universal access. Allowing a carrier to discontinue service when there are no other service options available would run contrary to that mission. Additionally, this requirement, as a part of our overarching determination of the public interest implications of a discontinuance application, sufficiently addresses any concerns regarding potential disparate impacts on minority communities. The Order declined to adopt a *de minimis* threshold for judging whether a replacement service offers the same coverage as to ensure that all customers in a service territory where the legacy voice service is offered continue to have the ability to obtain service.

132. *Prong Two: Critical Applications.* Second, the public relies on assurances that critical applications related to public safety and protecting those most vulnerable remain accessible and operational through any transition. Therefore, to satisfy the second prong of the adequate replacement test and remain eligible for automatic grant, applicants must demonstrate that access to critical applications and functionalities as required under our rules remains available. Under this second prong, an applicant for discontinuance of service must certify that at least one replacement service complies with Commission regulations regarding availability and functionality of 911 service for consumers and public safety answering points (PSAPs), provides comparably effective network security, and complies with Commission regulations regarding compatibility with assistive technologies. Incorporating these certifications into our section 214 process benefits consumers, public safety entities, and industry participants alike by providing clear, consistent, and certain guidance regarding the importance of ensuring that critical applications will continue to function following a technology transition and are free from network vulnerabilities.

133. The Order specifically concludes that, in order to satisfy the consumer access to 911 requirement and remain eligible for automatic grant, the replacement service must offer a dispatchable address capability. If the rules applicable to the replacement service require provision of an MSAG-validated address, the applicant may meet this requirement by certifying that its replacement service meets the 911 registered location requirements applicable to that service in the Commission's rules. However, if the 911 requirements for the replacement service do not require provision of a validated address, the applicant must further certify that it will register a validated dispatchable address for each subscriber and provide the address to the appropriate PSAP for all 911 calls. If relying on a third party service, the applicant must show that the third party service provide meets this requirement to allow the applicant to remain eligible for streamlined processing. These requirements will ensure that PSAPs continue to receive accurate location information to dispatch emergency first responders directly to the correct location of the 911 call, thereby serving to minimize the response time critical for saving lives and safeguarding the public.

134. The Commission declined to impose any new financial obligations on carriers under this prong. For example, while we acknowledge the perspective of consumer advocacy groups and state and local governments that argue that when the transition to a replacement service requires upgrade of assistive technologies, the applicant should not only inform affected users of the associated costs but help subsidize them, we emphasize that that this is not the appropriate forum in which to impose any new financial obligations upon providers.

135. *Prong Three: Interoperability.* Third, we also emphasize in the Order that consumers should have access to the applications and functionalities they have come to associate as—and which currently remain—key components of the applicant service. Therefore, to satisfy the third prong of the adequate replacement test and retain eligibility for streamlined processing, the Order requires that an applicant must demonstrate that a replacement service offers compatibility with an enumerated set of applications and functionalities. The Order adopts AT&T's proposal that widely adopted low-speed modem devices such as fax machines, home security alarms, medical monitoring devices, analog-only caption telephone sets, and point-of-sale terminals should make up the initial list of key applications for which interoperability is required.

136. The Order directs the Office of Engineering and Technology, working in consultation with the Wireline Competition Bureau and the Wireless Telecommunications Bureau (Bureaus) and subject to the guidelines below, to seek comment and, based on the record developed, propose additions to the list of key applications and functionalities adopted above for Commission review and approval. These guidelines are: (i) Whether customers rely on the application or functionality for health or safety reasons; (ii) whether the application or functionality is used as a wholesale input by other providers; (iii) whether the application or functionality relies on vendor equipment or inputs that have been discontinued; and (iv) whether the service provider, as opposed to the end-user customer, is the least-cost avoider. The Order concludes that it is appropriate to expect that replacement services offer compatibility with these devices until 2025. These guidelines reflect our goal of ensuring that the technology transitions broadly benefit consumers, including those who still value certain applications and functionalities associated with legacy voice services. Applying certain market-based considerations and adopting a sunset for this requirement is intended to address incumbent LECs' concerns about being placed at a potential competitive disadvantage by requiring them indefinitely to retain applications and functionalities that are no longer important to consumers.

137. Again, whether by certification or appropriate showing, applicants meeting this adequate replacement test will still have the opportunity for automatic grant, allowing for speedy review where an applicant complies with all relevant standards. Our mission here is to ensure a customer experience with the replacement service that is substantially similar to the customer experience with the service being

discontinued, not to create new obligations.

138. *Other Issues. Customer Education & Outreach Plan.* The Order requires that an applicant offer an adequate customer education and outreach plan in accessible and usable formats. An adequate customer outreach plan includes: (i) The development and dissemination of educational materials, provided to all customers affected, containing specific information pertinent to the transition; (ii) the creation of a telephone hotline and the option to create an additional interactive and accessible service to answer questions regarding the transition; and (iii) appropriate training of staff to field and answer consumer questions about the transition. The educational materials must include, at minimum: (i) A general description of the changes to the service, written in a non-technical manner that can be readily understood by the average consumer; (ii) the impact on existing applications and functionalities that are likely to be purchased by individual customers, including whether such applications and functionalities will be available following the transition; (iii) any change in the price of the service and impact on applications and functionalities which run on the service to be discontinued; and (iv) points of contact who will address technology transitions issues, as much as is practicable. If the applicant is relying on a third party service, we require the applicant to provide: (i) Contact information for that third party; and (ii) upon inquiry from a consumer, information regarding the interoperability and compatibility of applications and functionalities benefiting individuals with disabilities that run on the applicant's legacy voice service. Moreover, to ensure that customers understand the notice that they receive, any applicant who in the ordinary course of business regularly uses a language other than English in its communications with customers must provide the education materials to customers in both English and that regularly used language. We find that the establishment of clear guidance on education outreach materials will help promote the smoothest possible technology transition, consumer choice, and the fulfillment of consumer information needs. We also find that the plan's additional protections for vulnerable consumers, as well as the required hotline, further promote these values. Moreover, we do not find these requirements to be overly burdensome, as much of the information we are requiring is similar to the information required through copper retirement notices under the rules adopted in the *Emerging Wireline Order.* The Commission will consider a carrier's certification to these requirements as part of its overall analysis of whether granting the application would be in the public interest.

139. *Email Notice.* The rules adopted in the Order allow carriers to provide email notice to customers of a planned discontinuance where those customers have previously agreed to receive notice from the carrier by that method. The Order allows carriers to provide notice by any other alternative method to which the customer has previously agreed. In both instances, the same provisos adopted in connection with the recently-adopted copper retirement rules shall apply (*e.g.,* notice must be made in a clear and conspicuous manner; and may not contradict or be inconsistent with any other information with which it is presented). In addition, (a) the incumbent LEC must have previously obtained express, verifiable, prior approval from retail customers to send notices via email regarding their service in general, or planned network changes in particular; (b) an incumbent LEC must ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and (c) any email notice returned to the carrier as undeliverable will not constitute the provision of notice to the customer. As in the copper retirement context, this requirement should be sufficient to ensure that customers receive notice, without imposing unnecessary additional burdens on incumbent LECs. This outcome affords carriers greater flexibility in providing notice of discontinuances and establishes a measure of symmetry between the email notice requirements for discontinuances and the copper retirement rules.

140. *Notice to Tribal Governments.* Further, the rules adopted in the Order require all carriers to provide notice of discontinuance applications to Tribal governments in the state in which the discontinuance is proposed, in addition to the notice already required to state PUCs, state governors, and the Department of Defense. This outcome aligns the notice requirements for section 214 discontinuance applications and copper retirement network changes, imposes the same requirement on all carriers serving Tribal lands, and places Tribal governments in all states in a position to prepare and address any concerns from consumers in their Tribal communities. The Order also rejected proposals to revise the discontinuance timing of notice rules in section 63.71.

141. *Timing of Notice.* The Order rejects revising section 63.71 to require advance notice of a planned discontinuance or to lengthen the discontinuance process by changing the existing timeline for filing objections and/or allowing automatic grant. Based on the record, we conclude that there is no evidence of actual harm; however, we recognize that large-scale technology transition-related discontinuances have not yet occurred. Thus, while we do not revise section 63.71 in this Order, we emphasize that the Commission may revisit this issue if presented with evidence of such a need in the future.

142. *Order On Reconsideration.* The Order on Reconsideration revises the Commission's rules to make a competitive LEC's application for discontinuance deemed granted on the effective date of any copper retirement that made the discontinuance unavoidable as long as the discontinuance application is filed at least 40 days prior to the retirement effective date and the competitive LEC certifies that the copper retirement was the basis for the discontinuance. This is intended to address a gap in the Commission's rules that left competitive LECs potentially without recourse to avoid violating the discontinuance rules. Under this new requirement, competitive LECs will have more than four months to consider the implications of the planned copper retirement and weigh their alternatives.

143. *Summary of Significant Issues Raised by Public Comments to the IRFA.* There were no comments raised that specifically addressed the proposed rules and policies presented in the *FNPRM* IRFA (80 FR 57768–01). Nonetheless, the Commission considered the potential impact of the rules proposed in the IRFA on small entities and reduced the compliance burden for all small entities in order to reduce the economic impact of the rules enacted herein on such entities.

144. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rule(s) as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rule(s) in this proceeding.

145. *Description and Estimate of the Number of Small Entities to Which*

Rules May Apply. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small business is an independent business having less than 500 employees. Nationwide, there are a total of approximately 28.2 million small businesses, according to the SBA.

146. The majority of the rules and policies adopted in the Order will affect obligations on incumbent LECs and, in some cases, competitive LECs. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, the comprehensive small entity size standards that could be directly affected herein.

147. *Wireline Providers. Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 2007, there were 3,188 firms in this category, total, that operated for the entire year. Of this total, 3,144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

148. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by rules adopted pursuant to the Order.

149. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by rules adopted pursuant to the Order.

150. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

151. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of the 72, seventy have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and other local service providers are small entities that may be affected by rules adopted pursuant to the Order.

152. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 359 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by rules adopted pursuant to the Order.

153. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees and five have more than 1,500 employees. Consequently, the Commission estimates that most

Other Toll Carriers are small entities that may be affected by rules adopted pursuant to the Order.

154. *Wireless Providers. Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had employment of 999 or fewer employees and 15 had employment of 1,000 employees or more. Since all firms with fewer than 1,500 employees are considered small, given the total employment in the sector, we estimate that the vast majority of wireless firms are small.

155. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

156. *Cable Service Providers. Cable and Other Program Distributors.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies." The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services we must, however, use current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was all such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2007, there were a total of 3,188 firms in this category that operated for the entire year. Of this total, 2,684 firms had annual receipts of under $10 million, and 504 firms had receipts of $10 million or more. Thus, the majority of these firms can be considered small and may be affected by rules adopted pursuant to the Order.

157. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers, nationwide. The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. The Commission also applied this size standard to MVPD operators in its implementation of the CALM Act. Industry data shows that there are 660 cable operators in the country. Depending upon the number of homes and the size of the geographic area served, cable operators use one or more cable systems to provide video service. Of this total, all but eleven cable operators nationwide are small under this size standard. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,945 cable systems nationwide. The number of active, registered cable systems comes from the Commission's Cable Operations and Licensing System (COALS) database on Aug. 28, 2013. A cable system is a physical system integrated to a principal headend.

158. Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

159. *All Other Telecommunications.* The Census Bureau defines this industry as including "establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry." The SBA has developed a small business size standard for this category; that size standard is $32.5 million or less in average annual receipts. According to Census Bureau data for 2007, there were 2,383 firms in this category that operated for the entire year. Of these, 2,346 firms had annual receipts of under $25 million and 37 firms had annual receipts of $25 million or more. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

160. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* A number of our rule changes will result in additional reporting, recordkeeping, or compliance requirements for small entities. All of the rules we implement impose some compliance burdens on small entities by requiring them to become familiar with the new rules to comply with them. In certain cases, the burden of becoming familiar with the new rule in order to comply with it is the only additional burden the rule imposes. For all of the rule changes, we have determined that the benefit the rule change will bring for consumers, competition, and innovation outweighs the burden of the increased requirement/s. Other rule changes decrease reporting, recordkeeping, or compliance requirements for small entities. We have noted the applicable rule changes below impacting small entities.

161. *Adequate Replacement Test.* Any carrier that wants the potential for automatic grant of a technology transition discontinuance application must comply with the new adequate replacement test explained above. Although this will increase reporting, recordkeeping, and compliance requirements for small businesses these certification and compliance requirements are minimally necessary to enable us to evaluate these types of discontinuance applications more briskly to the benefit of applicants, consumers, and public safety entities. We specifically balance these burdens against the need to ensure that next-generation services meet the needs of consumers. These standards will create certainty regarding technology transitions discontinuances, and will benefit consumers, public safety entities, and industry participants by clarifying the importance of ensuring

that network performance will be sufficient, that critical applications will continue to function, and that consumers will have access to the applications they associate as key components of the applicant service following a technology transition.

162. Allowing transition applicants to either demonstrate compliance with objective criteria *or* make a demonstration that, despite not being able to meet the criteria, the totality of the circumstances demonstrates that an adequate replacement nonetheless exists, while remaining eligible for automatic grant gives applicants flexibility and decreases the burdens associated with strict compliance rules. Additionally, the Commission evaluating first and third party services equally and allowing applicants relying on a third party service to make a *prima facie* showing based on publicly available information as to whether the third party service meets our test as an adequate replacement gives applicants flexibility and decreases compliance burdens. The Order further promotes speedy transitions and decreases compliance burdens by allowing for a more streamlined approach for discontinuances involving services that are substantially similar to those for which section 214 discontinuance has previously been approved and streamlining the section 214 process in instances where consumers no longer subscribe to legacy voice service. These rules allow the applicant to bypass the performance testing requirements. Thus, the streamlined approach benefits applicants by reducing the reporting, recordkeeping and compliance burdens resulting from performance testing requirements, while protecting the interests of all stakeholders, industry and consumers. It also ensures a customer experience with the replacement service that is substantially similar to the customer experience with the service being discontinued, without creating new overly burdensome obligations.

163. Moreover, as described above, established network performance testing parameters will avoid confusion over the merits of particular results and ensure that the Commission analyzes similar data sets from applicants in the technology transitions. Although network testing increases compliance burdens, the Order provides some flexibility in the testing parameters an applicant will use. If the testing parameters raise sufficient concerns such that the Commission removes the application from streamlined processing, the Commission will still consider those testing parameters in any totality of the circumstances analysis of the adequacy of the replacement network. We conclude these metrics are appropriate for replacement networks in order to provide substantially similar performance as a legacy TDM service.

164. Another rule that will decrease recording, recordkeeping and compliance burdens on small businesses is the performance test exemption for small carriers. We recognize that in other contexts smaller carriers may require more tailored solutions and network testing under the parameters established in Appendix B could be more difficult for smaller carriers and relatively speaking burdensome, given the more limited number of customers. Therefore, the Order provides smaller carriers more flexibility in how they demonstrate network performance under this prong of the three-prong test. The Order concludes that carriers with 100,000 or fewer subscriber lines, aggregated across all affiliates, may remain eligible for automatic grant without compliance with the specific testing requirements of the network performance criterion we articulate today.

165. The Order's established benchmarks for network performance, service availability, and network coverage protect consumers that depend on a network performing properly and service to be available when needed for everyday or emergency use. Similarly, consumer access to 911 and the dispatchable address requirement are critical to ensuring public safety. The Order also notes that transitioning from legacy-based services to new technologies presents new network vulnerability issues that did not exist with legacy technologies and comparing legacy voice services to new technologies is in part an apples-to-oranges comparison. Thus, in order to demonstrate that a replacement service is offering comparable security, the Order finds that a security benchmark that measures the unique risks associated with new technologies is necessary. The Order notes that satisfaction of this criterion is part of the adequate replacement test required for streamlined processing and is not mandatory to discontinue service generally. Moreover, the Order's interoperability guidelines reflect our goal of ensuring that technology transitions broadly benefit consumers of all types, including those who still value certain applications and functionalities associated with legacy voice services.

166. Therefore, the benefits of the adequate replacement test outweigh any additional reporting, recordkeeping, or compliance obligations upon small businesses.

167. *Application Requirements.* Applicants filing technology transition discontinuance applications and seeking streamlined treatment are also required to provide pricing information about the applicant service subject to discontinuance and the proposed replacement service. Although they are required to provide this information, it allows the Commission to evaluate the application in a streamlined manner without further information collections. This also ensures that consumer interests are protected throughout technology transitions.

168. *Consumer Education & Outreach Plan.* While the Order's establishment of consumer education and outreach materials requires a modest increase in a carrier's compliance burden, an overwhelming majority of commenters support its inclusion as it will help promote the smoothest possible technology transition, consumer choice, and the fulfillment of consumer information needs. The outreach plan's additional protections for vulnerable consumers, as well as the required hotline, further promotes these values. The Commission does not find these requirements to be overly burdensome as much of the information we are requiring is similar to the information required through copper retirement notices under the rules adopted in the *Emerging Wireline Order.* It also enables providers to respond to any customers who need assistance during the technology transitions process. The Commission will consider a carrier's certification to these requirements as part of its overall analysis of whether granting the application would be in the public interest to minimize the burdens of strict compliance.

169. *Email Notice and Notice to Tribal Governments.* Allowing providers to send email and alternative forms of notifications previously accepted by consumers decreases the burden of the discontinuance notification requirement for small businesses. Thus, making the discontinuance process more manageable for small businesses. Requiring carriers to provide notice of discontinuance applications to Tribal governments in the state in which the discontinuance is proposed may increase the burden on small entities, but it aligns the notice requirements for section 214 discontinuance applications and copper retirement network changes, imposes the same requirement on all carriers serving Tribal lands, and places Tribal governments in all states in a position to prepare and address any

concerns from consumers in their Tribal communities.

170. *Order On Reconsideration.* The Order on Reconsideration's revisions to the Commission's rules address a gap in the former rules that clarifies and harmonizes the copper retirement and discontinuance processes. Allowing a competitive LEC's application for discontinuance to be deemed granted on the effective date of any copper retirement that made the discontinuance unavoidable (if they meet certain requirements described above) reduces the compliance burdens on competitive LECs. Additionally, permitting competitive LECs to have more than four months to consider the implications of the planned copper retirement and weigh their alternative further reduces their compliance burdens.

171. *Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

172. The Commission is aware that this rulemaking could impact small entities by imposing costs and administrative burdens. For this reason, in reaching its final conclusions and taking action in this proceeding, the Commission has taken a number of measures to minimize or eliminate the costs and burdens generated by compliance with the adopted regulations. As described above, for example, we considered alternatives to the rulemaking changes that could have increased the burden of compliance for small businesses. We conclude that the new and updated requirements are minimally necessary to ensure we meet our statutory responsibilities with respect to technology transitions while preserving the core values of consumer protection, competition, universal service, and public safety. We believe that it is unlikely that small business will be impacted significantly by the final rules so as to outweigh the benefits of the rules.

173. In fact, we anticipate that in many instances, small businesses will find their burden decreased by the new rules. For example, permitting email-based notice of planned technology transitions discontinuances to customers or notice by any other alternative method to which the customer has previously agreed affords carriers greater flexibility in providing notice and establishes a measure of symmetry between the email notice requirements for discontinuances and the copper retirement rules. The requirement is sufficient to provide customers notice of discontinuance without imposing additional burdens on carriers. Requiring carriers to provide notice of discontinuance applications to Tribal governments in the state in which the discontinuance is proposed aligns the notice requirements for section 214 discontinuance applications and copper retirement network changes, imposes the same requirement on all carriers serving Tribal lands, and places Tribal governments in all states in a position to prepare and address any concerns from consumers in their Tribal communities.

174. Specifically, allowing technology transition applicants to either demonstrate compliance with objective criteria *or* make a demonstration that, despite not being able to meet the criteria, the totality of the circumstances demonstrates that an adequate replacement nonetheless exists, while remaining eligible for automatic grant, gives applicants flexibility and decreases the economic burdens on small businesses associated with strict compliance rules. Additionally, the criteria established in the three-prong test provides clarity that should enable us to evaluate these types of discontinuance applications more briskly, to the benefit of applicants and consumers, including small businesses. Incorporating these certifications into our section 214 process benefits consumers, public safety entities, and industry participants alike by providing clear, consistent, and certain guidance regarding the importance of ensuring that network performance will be sufficient, critical applications will continue to function, and that consumers will have access to the applications they associate as key components of the applicant service following a technology transition.

175. Similarly, the Commission evaluating first and third party services equally and allowing applicants relying on a third party service to make a *prima facie* showing based on publicly available information as to whether the third party service meets our test as an adequate replacement gives small business applicants flexibility and decreases the economic burdens associated with strict compliance rules. Furthermore, requiring that a single service (whether first- or third-party) satisfy all three prongs of the adequate replacement test in order to be eligible for automatic grant ensures consumers receive the integrated service experience they need and deserve and also reduces the potential the economic impact of consumers having to find and employ multiple service providers to satisfy their needs.

176. The Order recognizes the importance of promoting speedy transitions by allowing for a more streamlined approach for discontinuances involving services that are substantially similar to those for which section 214 discontinuance has previously been approved and streamlining the section 214 process in instances where consumers no longer subscribe to legacy voice service. The practical effect of these rules is to allow the applicant to bypass the performance testing requirements. The streamlined approach benefits applicants by reducing the economic burdens resulting from performance testing requirements, while protecting the interests of all stakeholders, industry and consumers. As discussed above, this also ensures a customer experience with the replacement service that is substantially similar to the customer experience with the service being discontinued, without creating new overly burdensome obligations.

177. Furthermore, the established benchmarks for network performance, service availability, and network coverage protect small businesses that depend on a network performing properly and service to be available when needed for everyday or emergency use. Another rule that will decrease the economic burden on small businesses is the performance test exemption for small businesses or carriers. Network testing under the parameters established in Appendix B could be more difficult for smaller carriers and relatively speaking economically burdensome, given the more limited number of customers. Therefore, the Order provides smaller carriers more flexibility in how they demonstrate network performance under this prong of the three-prong test. The Order's interoperability guidelines also reflect our goal of ensuring that the technology transitions broadly benefit consumers of all types, including those who still value certain applications and functionalities associated with legacy voice services.

178. The Order's communications security criterion will ensure that consumers receive comparably effective protection from network security risks as they do with legacy networks. Limiting this criterion to the context of streamlined processing and noting that compliance will be examined flexibly will reduce the impact on small businesses.

179. The Order's establishment of clear guidance on education outreach materials will help promote the smoothest possible technology transition, consumer choice, and the fulfillment of consumer information needs which effectively protects small businesses that depend on an applicant's services by minimizing any negative economic impact due to lack of understanding about a technology transition. The outreach plan's additional protections for vulnerable consumers, as well as the required hotline, further promotes these values.

180. By declining to provide any rural LEC exemption, the Order also protects small businesses that depend on a network performing properly and service to be available when needed for everyday or emergency use. The Order concludes that rural consumers or small businesses, with often limited choice in service providers, should equally benefit from full consideration of the adequacy of any replacement service to ensure continued network performance and service quality, as well as access to critical applications, and interoperability with valued services.

181. The Order on Reconsideration's revisions to the Commission's rules to make a competitive LEC's application for discontinuance deemed granted on the effective date of any copper retirement that made the discontinuance unavoidable as long as the discontinuance application is filed at least 40 days prior to the retirement effective date and the competitive LEC certification that the copper retirement was the basis for the discontinuance are intended to address a gap in the Commission's rules that left competitive LECs potentially without recourse to avoid violating the discontinuance rules. Permitting competitive LECs to have more than four months to consider the implications of the planned copper retirement and weigh their alternative reduces burdens the former rules did not properly address. These revisions reduce the economic impact on competitive LECs and therefore burdens on consumers by clarifying and harmonizing the copper retirement and discontinuance processes.

182. *Federal Rules that Might Duplicate, Overlap, or Conflict with the Rules.* None.

183. *Report to Congress.* The Commission will send a copy of this Second Report and Order and Order on Reconsideration, including the FRFA, in a report to be sent to Congress pursuant to the SBREFA. In addition, the Commission will send a copy of this Second Report and Order, Order on Reconsideration, and Declaratory Ruling, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Second Report and Order, Order on Reconsideration, and Declaratory Ruling, and the FRFA (or summaries thereof) will also be published in the **Federal Register**.

184. *Ordering Clauses.* Accordingly, IT IS ORDERED that, pursuant to sections 1–4, 201, 214, 251, and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. 151 through 154, 201, 214, 251, 303(r), this Second Report and Order and Order on Reconsideration ARE ADOPTED.

185. IT IS FURTHER ORDERED that parts 51 and 63 of the Commission's rules ARE AMENDED as set forth in Appendix A, and that any such rule amendments that contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act SHALL BE EFFECTIVE after announcement in the **Federal Register** of Office of Management and Budget approval of the rules, and on the effective date announced therein.

186. IT IS FURTHER ORDERED that this Second Report and Order and Order on Reconsideration SHALL BE effective October 12, 2016, except for 47 CFR 51.329(c), 63.19(a), 63.60, 63.71, 63.602, and the outreach plan and consumer education requirements set forth in this Second Report and Order, which contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

187. IT IS FURTHER ORDERED that the Petition for Reconsideration filed by TelePacific IS GRANTED IN PART AND DENIED IN PART.

188. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Second Report and Order and Order on Reconsideration to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

189. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Second Report and Order and Order on Reconsideration, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 51

Communications common carriers, Telecommunications.

47 CFR Part 63

Cable television, Communications common carriers, Radio, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 51 and 63 as follows:

PART 51—INTERCONNECTION

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 47 U.S.C. 151–55, 201–05, 207–09, 218, 220, 225–27, 251–54, 256, 271, 303(r), 332, 1302.

■ 2. Section 51.329 is amended by revising paragraph (c)(1) to read as follows:

§ 51.329 Notice of network changes: Methods for providing notice.

* * * * *

(c) * * *

(1) The public notice or certification must be labeled with one of the following titles, as appropriate: "Public Notice of Network Change Under Rule 51.329(a)," "Certification of Public Notice of Network Change Under Rule 51.329(a)," "Short Term Public Notice Under Rule 51.333(a)," "Certification of Short Term Public Notice Under Rule 51.333(a)," "Public Notice of Copper Retirement Under Rule 51.332," or "Certification of Public Notice of Copper Retirement Under Rule 51.332."

* * * * *

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 3. Section 63.19 is amended by revising paragraph (a) introductory text to read as follows:

§ 63.19 Special procedures for discontinuances of international services.

(a) With the exception of those international carriers described in paragraphs (b) and (c) of this section, any international carrier that seeks to discontinue, reduce, or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines, shall be subject to the following procedures in lieu of those specified in §§ 63.61 through 63.602:

* * * * *

■ 4. Section 63.60 is amended by adding paragraph (h) to read as follows:

§ 63.60 Definitions.

* * * * *

(h) The term "technology transition" means any change in service that would result in the replacement of a wireline TDM-based voice service with a service using a different technology or medium for transmission to the end user, whether Internet Protocol (IP), wireless, or another type; except that retirement of copper, as defined in § 51.332(a) of this chapter, that does not result in a discontinuance, reduction, or impairment of service requiring Commission authorization pursuant to this part shall not constitute a "technology transition" for purposes of this part.

■ 5. Section 63.71 is amended by revising paragraph (a) introductory text, adding paragraphs (a)(6) and (7), redesignating paragraph (f) as (j), redesignating paragraphs (b) through (e) as (c) through (f), adding new paragraph (b), adding a sentence to the end of newly redesignated paragraph (f), and adding paragraphs (g), (h), and (i).

The revisions and additions read as follows:

§ 63.71 Procedures for discontinuance, reduction or impairment of service by domestic carriers.

* * * * *

(a) The carrier shall notify all affected customers of the planned discontinuance, reduction, or impairment of service and shall notify and submit a copy of its application to the public utility commission and to the Governor of the State in which the discontinuance, reduction, or impairment of service is proposed; to any federally-recognized Tribal Nations with authority over the Tribal lands in which the discontinuance, reduction, or impairment of service is proposed; and also to the Secretary of Defense, Attn. Special Assistant for Telecommunications, Pentagon, Washington, DC 20301. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice. For purposes of this section, notice by email constitutes notice in writing. Notice shall include the following:

* * * * *

(6) For applications to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(h) of this part, in order to be eligible for automatic grant under paragraph (f) of this section:

(i) A statement that any service offered in place of the service being discontinued, reduced, or impaired may not provide line power; and

(ii) The information required by § 12.5(d)(1) of this chapter.

(7) For applications to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(h) of this part, in order to be eligible for automatic grant under paragraph (f) of this section:

(i) A description of any security responsibilities the customer will have regarding the replacement service; and

(ii) A list of the steps the customer may take to ensure safe use of the replacement service.

(b) If a carrier uses email to provide notice to affected customers, it must comply with the following requirements in addition to the requirements generally applicable to the notice:

(1) The carrier must have previously obtained express, verifiable, prior approval from retail customers to send notices via email regarding their service in general, or planned discontinuance, reduction, or impairment in particular;

(2) A carrier must ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and

(3) Any email notice returned to the carrier as undeliverable will not constitute the provision of notice to the customer.

* * * * *

(f) * * * An application to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(h) of this part, may be automatically granted only if the applicant provides affected customers with the notice required under paragraphs (a)(6) and (7) of this section, and the application contains the showing or certification described in § 63.602(b) of this part.

(g) An application to discontinue, reduce, or impair a service for which the requesting carrier has had no customers or reasonable requests for service during the 180-day period immediately preceding submission of the application shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant, unless the Commission has notified the applicant that the grant will not be automatically effective.

(h) An application to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(h) of this part, shall contain the information required by § 63.602 of this part. The certification or showing described in § 63.602(b) of this part is only required if the applicant seeks eligibility for automatic grant under paragraph (f) of this section.

(i) An application to discontinue, reduce, or impair a service filed by a competitive local exchange carrier in response to a copper retirement notice filed pursuant to § 51.332 of this chapter shall be automatically granted on the effective date of the copper retirement; provided that:

(1) The competitive local exchange carrier submits the application to the Commission for filing at least 40 days prior to the copper retirement effective date; and

(2) The application includes a certification, executed by an officer or other authorized representative of the applicant and meeting the requirements of § 1.16 of this chapter, that the copper retirement is the basis for the application.

* * * * *

■ 6. Section 63.602 is added to read as follows:

§ 63.602 Additional contents of applications to discontinue, reduce, or impair an existing retail service as part of a technology transition.

(a) The application shall include:

(1) The contents specified in § 63.505 of this part;

(2) A statement identifying the application as involving a technology transition, as defined in § 63.60(h) of this part;

(3) Information regarding the price of the service for which discontinuance authority is sought and the price of the proposed replacement service; and

(4) A certification, executed by an officer or other authorized representative of the applicant and meeting the requirements of § 1.16 of this chapter, that the information required by this section is true and accurate.

(b) In order to be eligible for automatic grant under § 63.71(f) of this part, an applicant must demonstrate that a service(s) identified pursuant to § 63.505(k)(2) of this part is an adequate replacement for the voice service identified pursuant to § 63.505(k)(1) of this part by either certifying or showing, based on the totality of the circumstances, that one or more replacement service(s) satisfies all of the following criteria:

(1) Offers substantially similar levels of network infrastructure and service quality as the service being discontinued;

Note to paragraph (b)(1): For purposes of this section, "substantially similar" means that the network operates at a sufficient level such that it will allow the network platform to ensure adequate service quality for interactive and highly-interactive applications or services, in particular voice service quality, and support applications and functionalities that run on those services.

(2)(i) Complies with regulations regarding the availability and functionality of 911 service for consumers and public safety answering points (PSAPs), specifically §§ 1.7001 through .7002, 9.5, 12.4, 12.5, 20.18, 20.3, 64.3001 of this chapter;

(ii) Offers comparably effective protection from network security risks as the service being discontinued; and

(iii) Complies with regulations governing accessibility, usability, and compatibility requirements for:

(A) Telecommunications services and functionalities;

(B) Voicemail and interactive menu functionalities; and

(C) Advanced communications services, specifically 47 CFR 6.1 through 6.11, 7.1 through 7.11, 14.1 through 14.21, 14.60 through 14.61; and

(3) Offers interoperability with key applications and functionalities.

[FR Doc. 2016–20215 Filed 9–9–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 16–68; RM–11762 DA 16–894]

Radio Broadcasting Services; Maryville, Missouri

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Michael Myers, the Audio Division amends the FM Table of Allotments, by allotting Channel 285C3 at Maryville, Missouri, as the community's forth local service. A staff engineering analysis indicates Channel 285C3 can be allotted to Maryville consistent with the minimum distance separation requirements of the Commission's rules without a site restriction. The reference coordinates are 40–22–33 NL and 94–51–25 WL.

DATES: Effective September 19, 2016.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 16–68, adopted August 4, 2016, and released August 5, 2016. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. The full text is also available online at *http://apps.fcc.gov/ecfs/.* This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Maryville, Channel 285C3.

[FR Doc. 2016–21763 Filed 9–9–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2016–0097; 4500030115]

RIN 1018–BB69

Endangered and Threatened Wildlife and Plants; Taxonomic Correction for the Grand Cayman Ground Iguana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Direct final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the revised taxonomy of *Cyclura nubila lewisi* (Grand Cayman ground iguana) under the Endangered Species Act of 1973, as amended (Act). We are revising the List of Endangered and Threatened Wildlife to reflect the current scientifically accepted taxonomy and nomenclature of this species: *Cyclura lewisi* (Grand Cayman blue iguana). This action that does not alter the regulatory protections afforded to this species.

DATES: This rule will become effective on November 14, 2016, without further action, unless we receive significant scientific information that provides strong justifications as to why this rule should not be adopted or why it should be changed on or before October 12, 2016. If significant scientific information is received regarding why this rule should not be adopted or changed, we will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* In the Search box, enter FWS–HQ–ES–2016–0097, which is the docket number for this rulemaking. Then click on the Search button. You may submit a comment by clicking on "Comment Now!"
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–HQ–ES–2016–0097; Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife

Service, 5275 Leesburg Pike, MS: BPHC, Falls Church, VA 22041–3808.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

FOR FURTHER INFORMATION CONTACT: Janine Van Norman, Branch Chief, Foreign Species Branch, Ecological Services Program, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: ES, Falls Church, VA 22041; telephone 703–358–2171; facsimile 703–358–1735. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

You may submit your comments and materials regarding this direct final rule by one of the methods listed in **ADDRESSES**. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include. We will not consider comments sent by email or fax, or to an address not listed in **ADDRESSES**.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information that you provide to us. Before including your address, phone number, email address, or other personal information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this direct final rule, will be available for public inspection on the Internet at *http://www.regulations.gov* or by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Falls Church, Virginia (see **FOR FURTHER INFORMATION CONTACT**). Please note that comments posted to *http://www.regulations.gov* are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

Previous Federal Actions

On August 15, 1980, we published in the **Federal Register** (45 FR 54685) a notice of review of 18 species of foreign reptiles, including the Grand Cayman ground iguana (*Cyclura nubila lewisi*), to determine whether they should be proposed for listing as endangered or threatened species under the provisions of the Act (16 U.S.C. 1531 *et seq.*). On January 20, 1983, we published in the **Federal Register** a proposed rule to list the Grand Cayman ground iguana as an endangered species under the Act (48 FR 2562). On June 22, 1983, we published in the **Federal Register** (48 FR 28460) a final rule listing the Grand Cayman ground iguana (*Cyclura nubila lewisi*) as an endangered species under the Act.

Taxonomy of *Cyclura nubila lewisi*

The blue iguana native to the Grand Cayman Island was originally described as *Cyclura macleayi lewisi* Grant, 1940, a subspecies of the Cuban rock iguana (Burton 2012, unpaginated). In 1977, Schwartz and Carey reviewed the unique blue coloration of the Grand Cayman island population and noted that it was a distinct subspecies of *Cyclura nubila* and, thus, established the nomenclature, *Cyclura nubila lewisi* Grant (Burton 2004, p. 198). In 2004, the iguana was elevated from subspecies status (*Cyclura nubila lewisi*) to species-level status (*Cyclura lewisi*) (Burton 2012, unpaginated; Burton 2004, entire).

Taxonomic Correction

The Service's objective is to provide the protections of the Act to endangered and threatened species. Pursuant to 50 CFR 17.11(c), we use the most recently accepted scientific name for a listed species. We rely, to the extent practicable, on the Integrated Taxonomic Information System (ITIS) to determine a species' scientific name. ITIS incorporates the naming principles established by the *International Code of Zoological Nomenclature.* Because the *International Code of Zoological Nomenclature,* as well as the International Union for Conservation of Nature (IUCN) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), has accepted *Cyclura lewisi* as the appropriate taxonomy for the Grand Cayman ground iguana, and because this taxonomic change best reflects the scope of the Service's listing for this species, the Service is hereby adopting the scientific name *Cyclura lewisi* for the Grand Cayman ground iguana (Burton 2012, unpaginated; ITIS 2016, unpaginated; Burton 2004, entire).

Additionally, although 50 CFR 17.11(b) notes that common names cannot be relied upon for identification of any specimen, as they may vary greatly in local usage, the common name currently used by the Service, the Grand Cayman ground iguana, is not consistently used across scientific authorities. Therefore, for consistency, we are adopting the common name Grand Cayman blue iguana for this species to reflect Burton (2004, p. 198).

Use of Direct Final Rule

We are publishing this direct final rule without a prior proposal because this is a noncontroversial action that does not alter the scope of the animals that are protected or the regulatory protections afforded to this species. Rather, it reflects the current scientifically accepted taxonomy and nomenclature of the Grand Cayman blue iguana. Therefore, in the best interest of the public, we are taking this action to update the scientific and common names in as timely a manner as possible to eliminate confusion by adopting the accepted taxonomy and align the scientific name with CITES nomenclature, unless we receive significant scientific information that provides strong justifications as to why this rule should not be adopted or why it should be changed on or before the comment due date specified above in **DATES**. If we receive significant scientific information that provides strong justifications as to why this rule should not be adopted or why it should be changed, we will publish a document in the **Federal Register** withdrawing this rule before the effective date, and we will engage in the normal rulemaking process to promulgate these changes to 50 CFR 17.11.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule; your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act

We have determined that an environmental assessment or an environmental impact statement, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations adopted under section 4(a) of the Act. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of the references used to develop this rule is available upon request from the Foreign Species Branch (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h), the List of Endangered and Threatened Wildlife, by removing the entry for "Iguana, Grand Cayman ground" and adding in alphabetical order an entry for "Iguana, Grand Cayman blue" under REPTILES to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
* *	*	* *		* *
REPTILES				
* *	*	* *		* *
Iguana, Grand Cayman blue	*Cyclura lewisi*	Wherever found	E	48 FR 28460; 6/22/1983.
* *	*	* *		* *

* * * * *

Dated: September 2, 2016.

Brian Arroyo,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2016–21845 Filed 9–9–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[160229157–6781–02]

RIN 0648–BF84

Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management in the Gulf of Alaska Trawl Fisheries; Amendment 103

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 103 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Amendment 103 and this final rule allow NMFS to reapportion unused Chinook salmon prohibited species catch (PSC) within and among specific trawl sectors in the Central and Western Gulf of Alaska (GOA), based on specific criteria and within specified limits. Amendment 103 and this final rule do not increase the current combined annual PSC limit of 32,500 Chinook salmon that applies to Central and Western GOA trawl sectors under the FMP. Amendment 103 and this final rule promote more flexible management of GOA trawl Chinook salmon PSC, increase the likelihood that groundfish resources are more fully harvested, reduce the potential for fishery closures, and maintain the overall Chinook salmon PSC limits in the Central and Western GOA. Amendment 103 and this final rule are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: Effective on October 12, 2016.

ADDRESSES: Electronic copies of Amendment 103, the final Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis prepared for this action; the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for Amendment 97 to the FMP; and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for Amendment 93 to the FMP are available at *http://www.regulations.gov* or may be obtained from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* All public comments submitted during the previous comment periods may be obtained from *www.regulations.gov.*

An electronic copy of the November 30, 2000, Biological Opinion on the effects of the Alaska groundfish fisheries on Endangered Species Act (ESA)-listed Chinook salmon is available at: *http://alaskafisheries.noaa.gov/protectedresources/stellers/plb/default.htm.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; by email to *OIRA_Submission@omb.eop.gov;* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Jeff Hartman, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the U.S. Exclusive Economic Zone (EEZ) of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

NMFS published the Notice of Availability for Amendment 103 in the **Federal Register** on May 26, 2016 (81 FR 33456), with comments invited through July 25, 2016. NMFS published the proposed rule to implement Amendment 103 on June 16, 2016 (81 FR 39237), with comments invited through July 18, 2016. The Secretary of Commerce approved Amendment 103 on August 24, 2016. NMFS received two comment letters containing seven unique substantive comments on Amendment 103 and the proposed rule. A summary of these comments and the responses by NMFS are provided under the heading Response to Comments below.

The preamble to the proposed rule (81 FR 39237, June 16, 2016) contains a detailed review of the provisions of Amendment 103, the proposed regulations to implement Amendment 103, and the rationale for these regulations. The preamble to this final rule includes a brief description of (1) the Gulf of Alaska groundfish management areas and trawl fisheries affected by Amendment 103, (2) the management of Chinook salmon PSC limits in the GOA trawl fisheries, (3) the objectives and rationale for Amendment 103 and its implementing regulations, (4) the provisions of the Chinook salmon PSC measures, (5) the changes from proposed rule to final, and (6) response to comments.

Management Areas and Fisheries Affected

Amendment 103 applies to federally-permitted vessels fishing for pollock and non-pollock groundfish with trawl gear (non-pollock trawl fisheries) in the Central and Western Reporting Areas of the GOA (Central and Western GOA). The Central and Western Reporting Areas, defined at § 679.2 and shown in Figure 3 to 50 CFR part 679, consist of the Central and Western Regulatory Areas in the EEZ (Statistical Areas 610, 620, and 630) and the adjacent waters of the State of Alaska (0 to 3 nm).

Vessels fishing for pollock and non-pollock groundfish are managed under annual total allowable catch (TAC) limits as recommended by the Council and approved by NMFS. Section 303(a) of the Magnuson-Stevens Act, the FMP, and regulations at 50 CFR 679.20(c) require that the Council recommend and NMFS specify an overfishing level (OFL), an acceptable biological catch (ABC), and a TAC for each stock or stock complex (*i.e.,* each species or species group) of groundfish on an annual basis. The TAC is the annual catch limit for a species, derived from the ABC by considering social and economic factors and management uncertainty. The TACs for some species are subject to further apportionment on a seasonal basis and among vessels using specific types of gear in the GOA (see § 679.20(a)). NMFS closes directed (*i.e.,* targeted) fisheries when a TAC or seasonal apportionment of TAC is reached, and restricts fishing in other fisheries that may incidentally take a species or species group approaching its OFL.

In the Central and Western GOA, trawl vessels target multiple groundfish species and are categorized by whether they participate in the directed fishery for pollock or other non-pollock species. Non-pollock species include arrowtooth flounder, deep-water flatfish, flathead sole, Pacific cod, rex sole, rockfish, sablefish, shallow-water flatfish, and other groundfish species. Many of the vessels participating in the non-pollock trawl fisheries catch and retain multiple groundfish species during a single fishing trip. The fisheries and five trawl sectors participating in these fisheries are described in detail in Section 3.4.2 of the RIR, and that description is summarized here.

Pollock in the Central and Western GOA is allocated entirely to trawl catcher vessels (CVs) (see § 679.20(a)(6)(i)). This final rule defines the Central and Western GOA pollock trawl CV fisheries as the Central GOA and Western GOA pollock sectors.

The non-pollock fisheries in the Central and Western GOA are harvested by vessels using trawl and non-trawl gear (*i.e.,* hook-and-line, jig, and pot gear). Amendment 103 and this final rule categorize the non-pollock trawl fisheries into three distinct sectors: The Trawl catcher/processor (C/P) sector; the Rockfish Program (CV) sector; and the Non-Rockfish Program CV sector.

The Trawl C/P sector includes trawl C/Ps that participate in a range of non-pollock groundfish fisheries in the Central and Western GOA such as arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, rockfish and sablefish.

The Rockfish Program CV sector includes any CV fishing for groundfish, other than pollock, with trawl gear in the Central GOA and operating under the authority of a Central GOA Rockfish Program cooperative quota permit. The Central GOA Rockfish Program is a limited access privilege program that authorizes vessels to fish for a variety of rockfish species, Pacific cod, and sablefish in the Central GOA. Additional detail on the Central GOA Rockfish Program and the Rockfish Program CV sector is provided in Section 1.1 of the RIR, and the final rule implementing the Central GOA Rockfish Program (76 FR 81248, December 27, 2011).

The Non-Rockfish Program CV sector is defined as any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Central or Western Reporting Area of the GOA and not operating under the authority of a Central GOA Rockfish Program cooperative quota (CQ) permit assigned to the catcher vessel sector.

Management of Chinook Salmon PSC Limits in the GOA Trawl Fisheries

Trawl vessels that fish for pollock and non-pollock species tow nets through the water. Groundfish species that are caught in trawl nets can occur in the same locations as Chinook salmon. Consequently, Chinook salmon are incidentally caught in trawl nets as fishermen target groundfish. This incidental catch of unintended species in a groundfish fishery is referred to as "bycatch."

Section 3 of the Magnuson-Stevens Act defines bycatch as fish that are harvested in a fishery, and that are not sold or kept for personal use. Therefore, Chinook salmon caught in groundfish fisheries are considered bycatch under the Magnuson-Stevens Act, the FMP, and NMFS regulations at 50 CFR part 679. Bycatch of any species is a concern of the Council and NMFS. National Standard 9 and section 303(a)(11) of the Magnuson-Stevens Act require the Council to recommend, and NMFS to implement, conservation and management measures that, to the extent practicable, minimize bycatch and bycatch mortality.

The bycatch of culturally and economically valuable species like Chinook salmon are categorized as prohibited species under the FMP. The bycatch of Pacific salmon, and Chinook salmon in particular, is closely monitored and managed in the groundfish fisheries off Alaska. In addition to salmon, other species, including steelhead trout, Pacific halibut, king crab, Tanner crab, and

Pacific herring, are also classified as prohibited species catch (PSC) in the groundfish fisheries off Alaska. Fishermen must avoid salmon bycatch, and any salmon caught must either be donated to the Prohibited Species Donation (PSD) Program (see § 679.26), or returned to Federal waters as soon as practicable, with a minimum of injury, after an observer has determined the amount of salmon bycatch and collected any scientific data or biological samples.

Some Chinook salmon stocks in the Pacific Northwest, including Washington, Oregon, and Idaho, are listed as endangered or threatened under the ESA. Small amounts of these ESA-listed Chinook salmon are caught in GOA non-pollock trawl fisheries. The November 30, 2000, Biological Opinion on the effects of the Alaska groundfish fisheries on ESA-listed salmon of the Pacific Northwest included an incidental take statement (ITS) with an annual incidental take threshold of 40,000 Chinook salmon for the GOA groundfish fisheries. Exceeding the ITS for Chinook salmon triggers reinitiation of section 7 consultation under the ESA (see Section 3 of the RIR) (see **ADDRESSES**).

NMFS has implemented two programs to limit use of Chinook salmon PSC in the GOA trawl fisheries: Amendment 93 and Amendment 97 to the FMP. The combined annual GOA trawl PSC limits under Amendments 93 and 97 are 32,500 Chinook salmon. Amendment 93, implemented in August 2012, established an aggregate Chinook salmon PSC limit of 25,000 divided among the directed pollock fisheries in the Central and Western GOA (77 FR 42629, July 20, 2012). Amendment 93 establishes a Chinook salmon PSC limit of 18,316 salmon in the Central GOA, and 6,684 Chinook salmon in the Western GOA. Amendment 97, implemented on January 1, 2015, established a long-term average annual PSC limit of 7,500 Chinook salmon for the Central and Western GOA non-pollock trawl fisheries (79 FR 71350, December 2, 2014). Under Amendment 97, this limit is divided among the three non-pollock trawl sectors: The Trawl C/P sector (3,600); the Rockfish Program CV sector (1,200); and the Non-Rockfish Program CV sector (2,700).

On May 3, 2015, NMFS prohibited directed fishing for groundfish by the Non-Rockfish Program CV sector after determining that the sector had reached its annual Chinook salmon PSC limit of 2,700 Chinook salmon. While Chinook salmon PSC limits were not exceeded at that time in other trawl sectors, existing Federal regulations did not allow NMFS to reapportion unused GOA Chinook salmon PSC limits from the trawl C/P and other CV trawl sectors to the Non-Rockfish Program CV sector. On August 10, 2015, NMFS implemented an emergency rule that provided the Non-Rockfish Program sector with up to 1,600 additional Chinook salmon PSC for the remainder of 2015 (80 CFR 47864, August 10, 2015). With this additional Chinook salmon PSC, the Non-Rockfish Program CV sector was able to resume fishing in 2015.

Amendment 103 and This Final Rule

As highlighted in the Council's purpose and need statement, Amendment 103 and this final rule (1) improve NMFS' inseason flexibility for reapportioning Chinook salmon PSC to minimize closures in the GOA, (2) are consistent with the goals of Amendments 93 and 97 and maintain current PSC limits, (3) do not exceed the incidental take threshold for ESA-listed Chinook salmon, and (4) balance competing social and economic interests. Amendment 103 and this final rule are necessary to increase the likelihood that groundfish resources are more fully harvested and to reduce the potential for fishery closures.

Improve NMFS' Inseason Flexibility for Reapportioning Chinook Salmon PSC To Minimize Closures in the GOA

Amendment 103 and this final rule provide NMFS the flexibility to reapportion unused Chinook salmon PSC among fishery sectors during years of high or unusual Chinook salmon PSC that may occur in one or more fishery sectors without revising the individual sector PSC limits that are currently set in regulation. It accomplishes that by authorizing NMFS to reapportion unused Chinook salmon PSC from any of the five pollock or non-pollock sectors to any other sector, except the Trawl C/P sector. For example, unused Chinook salmon PSC could be reapportioned from the Central GOA pollock trawl sector to the Non-Rockfish Program CV sector. NMFS would only make such a reapportionment after NMFS has determined that the remaining amount of the Central GOA pollock trawl sector's PSC limit is greater than the amount of Chinook salmon PSC projected to be necessary to harvest the pollock TAC in the Central GOA pollock trawl sector for the remainder of the year.

Are Consistent With the Goals of Amendments 93 and 97 and Maintain Current PSC Limits

Amendment 103 and this final rule do not change the annual Chinook salmon PSC limits at § 679.21(h)(4) that were implemented under Amendments 93 and 97 because those PSC limits continue to be the most practicable Chinook salmon PSC limits for the Central and Western GOA trawl fisheries. They are practicable, in part, because they continue to apply the current incentives to minimize incidental catch of Chinook salmon PSC in the five trawl sectors. Amendment 103 and this final rule continue to apply the incentives created by Amendments 93 and 97 because (1) the original PSC limits are set at an amount of PSC that is close to average historical use levels for most trawl sectors, (2) the amount of PSC that may be reapportioned among trawl sectors has been capped, and (3) potential receivers of Chinook salmon PSC reapportionments will continue to face uncertainty about whether and when NMFS will determine that unused Chinook salmon PSC is available to reapportion to them.

The potential still remains that a fishery will be closed if a Chinook salmon PSC limit is reached. Based on the historical use of Chinook salmon PSC, the Central and Western GOA pollock sectors are expected to be able to harvest their pollock TACs despite the Chinook salmon PSC limits established under Amendment 93. Of the five sectors covered by Amendments 93 and 97, two non-pollock sectors (Rockfish Program CV sector and Non-Rockfish Program CV sector) are more likely to be constrained by their Chinook salmon PSC limits because Amendment 97 set those two sectors' Chinook salmon PSC limits close to their levels of historic Chinook salmon PSC use (see the final rule for implementing Amendment 97 (79 FR 71350, December 2, 2014)). PSC limits established in Amendment 97 for the Trawl C/P sector provide a proportionally larger buffer measured from the sector's historical average Chinook salmon PSC use. The historic PSC use by the Trawl C/P sector indicates that this sector is not likely to exceed its current Amendment 97 PSC limit (Section 3.8 of the RIR). Therefore, trawl C/Ps are excluded from the additional reapportionments provided to other sectors in this final rule.

Amendment 103 and this final rule establish a cap on the amount of unused Chinook salmon PSC that may be reapportioned to a sector in a single year (§ 679.21(h)(5)(iv)). Reapportionments of unused Chinook salmon PSC may not exceed 3,342 Chinook salmon to vessels participating in the Western GOA pollock sector, 9,158 Chinook salmon to vessels participating in the Central GOA pollock sector, 600 Chinook salmon to the Rockfish Program CV sector, and

1,350 Chinook salmon to the Non-Rockfish Program CV sector. By capping the amount of unused Chinook PSC that can be received by a sector through a reapportionment, this final rule balances the goal of flexibility to reapportion unused PSC with the goal to minimize PSC, consistent with National Standard 9 of the Magnuson-Stevens Act.

This final rule also acknowledges that NMFS's ability to reapportion unused Chinook salmon PSC does not provide certainty for any pollock or non-pollock sector that a fishery will remain open. NMFS's ability to reapportion unused Chinook PSC within the caps designated in this final rule does not guarantee that unused Chinook salmon PSC will be available for reapportionment for a particular sector in a given year. Chinook salmon PSC encounter levels are highly variable across years. A sector is likely to reach its PSC limit in years when other GOA trawl sectors are experiencing similarly high Chinook salmon PSC levels, thus reducing the availability of reapportionments among those sectors. NMFS inseason managers will not necessarily reapportion unused Chinook salmon PSC to a closed sector. Although Amendment 103 and this final rule could prevent the closure of a sector during a particular year, the possibility exists that fishing opportunities might be forgone for at least part of that year. Reapportionment of unused Chinook salmon PSC is most likely to be from the Central or Western GOA pollock sectors, and most of the Chinook salmon PSC use in those two sectors occurs later in the year. NMFS will not make large reapportionments from either of these pollock sectors to a non-pollock sector until NMFS is able to reasonably project that a pollock sector's Chinook salmon PSC use will be below its PSC limit for the remainder of the year.

Section 3.8 of the RIR identifies the potential for small increases in the annual use of Chinook salmon PSC under Amendment 103 and this final rule, relative to the status quo, due to the increased flexibility to reapportion unused Chinook salmon PSC. The Council and NMFS concluded that because any reapportionment must be debited from a sector, the potential aggregate increase in the use of Chinook PSC across all five sectors under this final rule is likely be small and is consistent with the goals of Amendments 93 and 97. The RIR estimates the maximum aggregate increase in Chinook salmon PSC due to reapportionment of unused PSC from all five sectors will be no more than 2,000 Chinook salmon in any year, or approximately 6 percent of the current combined 32,500 Chinook salmon PSC limit for the Central and Western GOA trawl fisheries.

Do Not Exceed the Incidental Take Threshold for ESA-Listed Chinook Salmon

Under Amendment 103 and this final rule, trawl fisheries will continue to avoid exceeding the annual Chinook salmon ESA threshold of 40,000 Chinook salmon that was identified in the incidental take statement accompanying the November 30, 2000, Biological Opinion (see **ADDRESSES**). Establishing a limit on the amount of Chinook salmon PSC that may be taken on an annual basis in the pollock and non-pollock trawl fisheries in the Central and Western GOA will accomplish that goal. This final rule will continue to limit the combined annual Chinook salmon PSC in the Central and Western GOA trawl fisheries to 32,500 Chinook salmon, much less than the 40,000 Chinook salmon threshold.

Balance Competing Social and Economic Interests (National Standards)

As discussed in this preamble and the preamble to the proposed rule (81 FR 39237, June 16, 2016), the Council concluded, and NMFS agrees, that Amendment 103 and this final rule reduce the potential for Chinook salmon PSC limits implemented under Amendments 93 and 97 to cause adverse social and economic effects from a fishery closure and, at the same time, continue to minimize Chinook salmon PSC to the extent practicable. Reapportioning unused Chinook salmon PSC to a sector to avoid a closure or to reopen a fishery may prevent negative impacts to harvesters, processors, and GOA coastal communities that depend on that groundfish resource. Amendment 103 and this final rule are consistent with the National Standards 1, 5, 6, 8, and 9 (see Section 4.1 of the RIR). Amendment 103 and this final rule increase the likelihood that groundfish TACs will be achieved, allow for management actions to adjust to the variation in Chinook salmon PSC rates among sectors within a year, and decrease the likelihood that harvesters, processors, and communities will be adversely affected by fishery closures due to Chinook salmon PSC limits. Those objectives are consistent with National Standards 1, 5, 6, 8, and 9.

Reorganization of Regulations for Chinook Salmon PSC Limits

This final rule consolidates under § 679.21(h) the regulations for Chinook salmon PSC limits in the GOA pollock and non-pollock trawl fisheries that are currently found at § 679.21(h) and (i), respectively. This final rule consolidates under § 679.21(h) all the current Chinook salmon PSC limits and management measures as well as the regulations to authorize the reapportionment of Chinook salmon PSC limits among the GOA pollock and non-pollock trawl sectors. Consolidation of the Chinook salmon PSC limit regulations under § 679.21(h) will not result in any technical or substantive changes to the existing procedures, policies, and requirements that were implemented under Amendments 93 and 97. Consolidation allows for more efficient, clear, and concise regulations applicable to the entities regulated by this final rule.

Changes From Proposed to Final Rule

NMFS has not made any changes to the final rule or to the Regulatory Flexibility Act analysis.

Responses to Comments

NMFS received one letter from the U.S. Fish and Wildlife Service (USFWS) acknowledging its review of the proposed rule, but USFWS submitted no comments. NMFS also received a comment letter from the representative of the GOA trawl fishing industry interest group expressing support for the proposed rule and providing additional comments.

Comment 1: The commenter noted that the proposed rule provides additional flexibility to GOA pollock and non-pollock trawl fisheries and recommends that the final rule be implemented. The commenter stated that the proposed rule will increase the likelihood that groundfish resources are more fully harvested, reduce the potential for fishery closures and resulting adverse socioeconomic impacts on harvesters, processors, and communities, and yet still maintain the overall Chinook salmon PSC limits in the Central and Western GOA.

Response: NMFS agrees that the added flexibility for reapportioning Chinook salmon PSC in Amendment 103 and this final rule will reduce the potential for fishery closures in the GOA pollock and non-pollock fisheries.

Comment 2: The commenter agreed with NMFS's assessment in the preamble to the proposed rule that fishery participants are unlikely to reduce their ongoing effort to avoid Chinook salmon as a result of Amendment 103 and the proposed rule.

Response: NMFS acknowledges this comment.

Comment 3: The commenter sought clarification of the dates in the proposed rule for providing NMFS with the discretion to reapportion Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV sector on October 1. The proposed rule would have provided discretion for the Regional Administrator to reallocate any unused Chinook salmon PSC from the Rockfish Program CV Sector, in excess of 150 Chinook salmon, to the Non-Rockfish Program CV Sector on October 1. As described in the Analysis, the Council's intent for this provision and the overall intent of Amendment 103 and the proposed rule is to provide the Regional Administrator the discretion to reapportion unused Chinook salmon PSC from the Rockfish Program CV sector to the Non-Rockfish Program CV sector either before, on, or after October 1. The commenter recommended revising text at § 679.21(h)(5)(i) to delete "On October 1" to provide the Regional Administrator greater flexibility regarding when to reapportion PSC as intended by the Council.

Response: NMFS agrees that a principal goal of Amendment 103 and this final rule is to increase the flexibility for inseason reapportionments of unused Chinook salmon PSC from the Rockfish Program CV sector to the Non-Rockfish Program CV sector, or to the Central GOA pollock or Western GOA pollock sectors, throughout the fishing year. This final rule accomplishes that goal since it provides NMFS with the discretion to reapportion unused Chinook salmon PSC from the Rockfish Program CV sector at any time during the year with two limitations. First, § 679.21(h)(5)(iv) imposes caps on the amount of Chinook salmon PSC that NMFS may reapportion. Second, § 679.21(h)(5)(i) and (ii) provide that, if on October 1, there are fewer than 150 Chinook salmon PSC available to the Rockfish Program catcher vessel sector, NMFS may not reapportion any of that PSC until November 15. Accordingly, between October 1 and November 15 of each year, NMFS has more limited discretion with regard to reapportionments from the Rockfish Program catcher vessel sector than compared to other times of the year. Prior to October 1, there is no express requirement that NMFS leave at least 150 Chinook salmon PSC for the Rockfish Program catcher vessel sector's use. However, NMFS will authorize a reapportionment after taking into consideration the amount of Chinook salmon PSC necessary to enable the transferor to prosecute its directed fisheries for the year.

The preamble to the proposed rule may not have been clear on the scope of NMFS's discretion to make a reapportionment prior to October 1. The text to Amendment 103 and the regulatory text, however, are clear, and this response provides additional background in order to remove any potential ambiguity.

Accordingly, with regard to the request to delete the October 1 and November 15 dates from the rule, NMFS declines to do so, as the dates are established in the FMP. In addition, in this Council-initiated action, the Council modified the provisions, but left the dates intact. Under section 304(a)(3) of the Magnuson-Stevens Act, NMFS must approve, disapprove, or partially approve the proposed amendment. Because the Council did not amend the dates, NMFS has no basis for deleting those dates from the FMP Amendment or its implementing regulations.

Comment 4: The provision at § 679.21(h)(5)(ii) of the proposed rule, which requires NMFS to reserve 150 Chinook salmon PSC for the Rockfish Program CV sector until November 15, is not consistent with the intent of this amendment to provide NMFS with flexibility to reapportion PSC as necessary after consultation with the industry. NMFS should have the discretion to reapportion any amount of PSC to a fishery at any time during the fishing year for consistency with the overall purpose and need for this action.

Response: NMFS addressed this comment in its response to Comment 3.

Comment 5: The commenter states that the cap on the amount of Chinook salmon PSC that can be reapportioned to any trawl sector based on 50 percent of that sector's initial PSC limit as defined at § 679.21(h)(4) limits flexibility and is unnecessarily restrictive.

Response: The amounts of Chinook salmon PSC that may be received in a reapportionment are itemized for each sector at § 679.21(h)(5)(iv). The preambles to the proposed rule and this final rule provide a thorough discussion of why the Council recommended and NMFS is implementing this final rule with sector-level PSC reapportionment caps.

The Council and NMFS examined a range of cap limits, prior to selecting a cap based on 50 percent of a sector's Chinook salmon PSC limit. The Council and NMFS determined that a cap larger than 50 percent of a sector's Chinook salmon PSC limit may reduce the incentive to minimize bycatch to the extent practicable. For example, with higher caps, or no cap on reapportionments, some sectors could significantly exceed their historical average use of Chinook salmon PSC. As noted earlier in this preamble, Amendment 103 and this rule were not intended to remove the Chinook salmon PSC limits established under Amendments 93 and 97. Rather, they are designed to provide additional flexibility while maintaining PSC levels reflective of each sector's historic use. The Council and NMFS also considered a range of cap limits that were lower than 50 percent of a sector's Chinook salmon PSC limit and concluded that a smaller cap could preclude the reapportionment of sufficient amounts of Chinook salmon PSC to avoid fishery closures, particularly for sectors such as the Rockfish Program CV sector that have small initial Chinook salmon PSC limits (See Analysis, Section 3.8). For the reasons previously discussed in this preamble and the preamble to the proposed rule for this action (81 FR 39237, June 16, 2016), none of these alternative cap limits had the potential to increase the flexibility for reapportioning Chinook salmon PSC within pollock and non-pollock sectors, while achieving the objectives of this action to reduce bycatch of Chinook salmon to the extent practicable.

Comment 6: The commenter stated that in the GOA pollock trawl fishery, Chinook salmon PSC estimates are derived from a census of observed vessels whereas in the non-pollock trawl fisheries, Chinook salmon PSC estimates are based on randomly selected samples taken by observers at sea. Due to the sampling design applied to the non-pollock fisheries, a non-pollock fishery sector's Chinook salmon PSC estimates could be derived from a single vessel's use of Chinook salmon PSC during a specific trip which may not be representative of the Chinook salmon PSC by other vessels in that sector. The commenter asserted that NMFS should modify observer sampling protocols in the non-pollock trawl fisheries and employ a census method on all observed vessels.

Response: PSC sampling and catch accounting methods for the non-pollock trawl fisheries are outside the scope of Amendment 103 and this final rule. The observer sampling methods for Chinook salmon PSC in the GOA trawl fisheries were established by Amendment 93 and Amendment 97 and are described in the preambles to both of those final rules.

Comment 7: The commenter stated that Amendment 103 does not provide all of the tools needed to fully utilize allocated Chinook salmon PSC or minimize bycatch to the extent practicable, and that a regulated catch share program that explicitly allocates target species and bycatch species such as salmon would accomplish these objectives.

Response: The consideration of alternatives and options for a GOA trawl bycatch management program is outside the scope of this action, which is limited to reapportionment of unused Chinook salmon PSC within and among specific trawl sectors in the GOA, within certain parameters. The Council is currently discussing alternatives for a GOA trawl bycatch management program that may provide additional tools to manage Chinook salmon PSC in the future. NMFS published a notice of intent to prepare an environmental impact statement for a new bycatch management program for GOA groundfish trawl fisheries in the **Federal Register** on July 28, 2016 (81 FR 49614). We encourage the commenter to provide input on GOA trawl bycatch management through that process.

Classification

The NMFS Assistant Administrator has determined that Amendment 103 and this final rule are necessary for the conservation and management of the groundfish fishery, and that they are consistent with the Magnuson-Stevens Act and other applicable law.

This rule has been determined to be not significant for the purposes of Executive Order 12866.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis (FRFA), the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The preambles to the proposed rule and this final rule serve as the small entity compliance guide. This action does not require any additional compliance from small entities that is not described in the preambles. Copies of the proposed rule and this final rule are available from the NMFS Web site at *http://alaskafisheries.noaa.gov.*

Final Regulatory Flexibility Analysis

This FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support this action.

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a FRFA. Section 604 describes the required contents of a FRFA: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirements, and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities, consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule, and the reason the agency rejected each of the other significant alternatives that affect the impact on small entities.

Need for, and Objectives of, This Rule

A statement of the need for, and objectives of, this rule is included earlier in this preamble and is not repeated here.

Summary of Significant Issues Raised During Public Comment

NMFS published the proposed rule to implement Amendment 103 on June 16, 2016 (81 FR 39237). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period on the proposed rule closed on July 18, 2016. NMFS received two letters of public comment on the proposed rule and Amendment 103. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule. No comments were received on the IRFA. No changes were made to this rule or the RFA analysis as a result of public comments.

Number and Description of Directly Regulated Small Entities

The action directly regulates federally permitted or licensed entities that participate in harvesting groundfish from the Federal or State-managed parallel pollock and non-pollock trawl fisheries of the Central and Western GOA. These entities include vessels participating in five trawl sectors (Central GOA pollock, Western GOA pollock, Trawl C/P, Rockfish CV, and Non-Rockfish Program CV) in the Central and Western GOA.

On December 29, 2015, NMFS issued a final rule establishing a small business size standard of $11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (80 FR 81194). The North American Industry Classification System (NAICS) code for commercial fishing is NAICS 11411 for RFA compliance purposes only. The $11 million standard became effective on July 1, 2016, and replaces the U.S. Small Business Administration's (SBA) current standards of $20.5 million, $5.5 million, and $7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016 (80 FR 81194). Taking this change into consideration, NMFS has identified no additional significant alternatives that accomplish statutory objectives and minimize any significant economic impacts of the proposed rule on small entities. Revising the size standard from $20.5 million to $11.0 million reduces the number of small entities for this action. Further, the new size standard does not affect the decision to prepare a FRFA as opposed to a certification for this regulatory action.

Fishing vessels are considered small entities for this FRFA if their total annual gross revenues, from all their activities combined, are less than $11.0 million. Further, the SBA requires consideration of affiliations among entities for the purpose of assessing if an entity is small. Trawl vessels engaged in one of the trawl sectors regulated by this action and affiliated with an American Fisheries Act pollock cooperative, Amendment 80 cooperative, or Central GOA Rockfish Program cooperative are large entities if gross annual revenues of the affiliate exceed $11.0 million.

Based on 2013 and 2014 data, this FRFA identifies 10 CVs that are defined as small entities. Twenty CVs were affiliated with a catch share program and their affiliate exceeded the $11.0 million annual gross revenue standard. All of the C/Ps regulated by this final rule are affiliated through one or more catch share program, and no trawl C/P qualifies as a small entity. Therefore, 10 small entities are directly regulated by this final rule. As noted above, all 10 small entities will benefit from, and will not be adversely impacted by this action.

Recordkeeping, Reporting, and Other Compliance Requirements

This final rule does not revise any existing recordkeeping, reporting, or other compliance requirements.

Description of Significant Alternatives Considered to the Final Action That Minimize Adverse Impacts on Small Entities

This action partially relieves a restriction on small entities by providing additional management flexibility for reapportioning Chinook salmon PSC limits in the GOA trawl fishery, and thus is a benefit to these small entities. During consideration of this action, the Council and NMFS evaluated a number of alternatives including (1) no action; (2) authorizing reapportionment of unused Chinook salmon PSC limit to the trawl C/P sector; and (3) limiting the percent of Chinook salmon PSC that can be reapportioned to or from a sector based on the amount of the Chinook salmon PSC initially assigned to a sector (between 10 percent and 50 percent of the initial Chinook salmon PSC limit). For the reasons previously discussed in this preamble and the preamble to the proposed rule for this action (81 FR 39237, June 16, 2016), none of these alternatives had the potential to further reduce the economic burden on small entities, while achieving the objectives of this action. Section 2 of the RIR discusses alternatives considered and eliminated from detailed analysis (see **ADDRESSES**).

The no action alternative fails to provide tools to reapportion Chinook salmon PSC limits to pollock and non-pollock trawl sectors to avoid fishery closures, and thus fails to meet the principal objective of this final rule. Providing reapportionment of Chinook salmon PSC with lower or higher caps than those selected would either reduce incentives to minimize PSC if the cap were too low, or eliminate the effectiveness of reapportionment if the cap is too high. Based on the best available scientific data and information, none of the alternatives except the preferred alternative have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and other applicable law (as reflected in this action), while minimizing significant adverse economic impact on small entities.

Collection-of-Information Requirements

This rule reorganizes regulatory text that contains a previously approved collection-of-information requirement subject to the Paperwork Reduction Act (PRA), and which has been approved by the Office of Management and Budget (OMB) under control number 0648–0515. This rule makes no revisions to the collection-of-information requirements. The eLandings at-sea production report or eLandings groundfish landing report are mentioned in this final rule, but the individual responses for each requirement is not changed.

Public reporting burden for the eLandings landing report is estimated to average ten minutes per individual response and for the eLandings production report is estimated to average five minutes per response. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 6, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; and Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.7, revise paragraph (b)(8) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(b) * * *

(8) *Prohibitions specific to salmon discard in the Western and Central Reporting Areas of the GOA directed fisheries for groundfish.* Fail to comply with any requirements of § 679.21(h).

* * * * *

■ 3. In § 679.21:

■ a. Revise paragraph (h); and

■ b. Remove paragraph (i) to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(h) *GOA Chinook Salmon PSC Management*—(1) *Applicability.* Regulations in this paragraph apply to trawl vessels participating in the directed fishery for groundfish in the Western and Central reporting areas of the GOA and processors receiving deliveries from these vessels.

(2) *GOA Chinook salmon PSC limits for the pollock sectors (fisheries).* (i) The annual PSC limit for vessels participating in the directed fishery for pollock in the Western reporting area of the GOA is 6,684 Chinook salmon.

(ii) The annual PSC limit for vessels participating in the directed fishery for pollock in the Central reporting area of the GOA is 18,316 Chinook salmon.

(3) *GOA non-pollock trawl sectors.* For the purposes of accounting for the annual Chinook salmon PSC limits at paragraph (h)(4)(i) of this section, the non-pollock trawl sectors are:

(i) *Trawl catcher/processor sector.* The Trawl catcher/processor sector is any catcher/processor vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central GOA reporting area and processing that groundfish at sea;

(ii) *Rockfish Program catcher vessel sector.* The Rockfish Program catcher vessel sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting area of the GOA and operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector; and

(iii) *Non-Rockfish Program catcher vessel sector.* The Non-Rockfish Program catcher vessel sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting area of the GOA and not operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector.

(4) *GOA Chinook salmon PSC limits for non-pollock trawl fisheries.* (i) The annual Chinook salmon PSC limits in the Western and Central reporting areas of the GOA for the sectors defined in paragraph (h)(3) of this section are as follows:

For the following sectors defined in § 679.21(h)(3) . . .	The total Chinook salmon PSC limit in each calendar year is . . .	Unless, the use of the Chinook salmon PSC limit for that sector in a calendar year does not exceed . . .	If so, in the following calendar year, the Chinook salmon PSC limit for that sector will be . . .
(A) Trawl catcher/processor sector	3,600	3,120	4,080
(B) Rockfish Program catcher vessel sector	1,200	N/A	
(C) Non-Rockfish Program catcher vessel sector	2,700	2,340	3,060

(ii) For the Trawl catcher/processor sector defined in paragraph (h)(3)(i) of this section:

(A) The seasonal PSC limit prior to June 1 is 2,376 Chinook salmon if the annual Chinook salmon PSC limit is 3,600. The seasonal PSC limit prior to June 1 is 2,693 Chinook salmon if the annual Chinook salmon PSC limit is 4,080.

(B) The number of Chinook salmon PSC available on June 1 through the remainder of the calendar year is the annual Chinook salmon PSC limit specified for the Trawl catcher/processor sector minus the number of Chinook salmon used by that sector prior to June 1 and any Chinook salmon PSC limit reapportioned to another sector specified at paragraph (h)(5)(iii) of this section prior to June 1.

(5) *Inseason reapportionment of Chinook salmon PSC limits.* (i) On October 1, the Regional Administrator may reallocate any unused Chinook salmon PSC available to the Rockfish Program catcher vessel sector, defined in paragraph (h)(3)(ii) of this section, in excess of 150 Chinook salmon to the Non-Rockfish Program catcher vessel sector, but not to exceed the Non-Rockfish Program catcher vessel sector's limit on Chinook salmon PSC reapportionment as defined in paragraph (h)(5)(iv)(D) of this section.

(ii) On November 15, the Regional Administrator may reallocate all remaining Chinook salmon PSC available to the Rockfish Program catcher vessel sector, defined in paragraph (h)(3)(ii) of this section, to the Non-Rockfish Program catcher vessel sector, but not to exceed the Non-Rockfish Program catcher vessel sector's limit on Chinook salmon PSC reapportionment as defined in paragraph (h)(5)(iv)(D) of this section.

(iii) Any Chinook salmon PSC limit in paragraphs (h)(2) or (h)(4) of this section projected by the Regional Administrator to be unused during the remainder of the fishing year may be reapportioned subject to the Chinook salmon PSC limits in paragraphs (h)(5)(iv)(A) through (D) of this section for the remainder of the fishing year. NMFS will publish notification in the **Federal Register** announcing any Chinook salmon PSC limit reapportionments in the GOA.

(iv) On an annual basis, NMFS shall not reapportion an amount of unused Chinook salmon PSC greater than the following amounts:

(A) 3,342 Chinook salmon to vessels participating in the directed fishery for pollock in the Western reporting area of the GOA;

(B) 9,158 Chinook salmon to vessels participating in the directed fishery for pollock in the Central reporting area of the GOA;

(C) 600 Chinook salmon to the Rockfish Program catcher vessel sector defined in paragraph (h)(3)(ii) of this section; and

(D) 1,350 Chinook salmon to the Non-Rockfish Program catcher vessel sector defined in paragraph (h)(3)(iii) of this section.

(6) *Salmon retention.* (i) The operator of a vessel, including but not limited to a catcher vessel or tender, must retain all salmon until delivered to a processing facility.

(ii) The operator of a catcher/processor or the owner and manager of a shoreside processor or SFP receiving groundfish deliveries from trawl vessels must retain all salmon until the number of salmon by species has been accurately recorded in the eLandings at-sea production report or eLandings groundfish landing report.

(iii) The owner and manager of a shoreside processor or SFP receiving pollock deliveries must, if an observer is present, retain all salmon until the observer is provided the opportunity to count the number of salmon and collect scientific data or biological samples from the salmon.

(iv) The operator of a catcher/processor must retain all salmon until an observer is provided the opportunity to collect scientific data or biological samples from the salmon.

(7) *Salmon discard.* Except for salmon under the PSD program defined in § 679.26, all salmon must be discarded after the requirements at paragraph (h)(6)(ii) or (h)(6)(iii) of this section have been met.

(8) *GOA Chinook salmon PSC closures.* If, during the fishing year, the Regional Administrator determines that:

(i) Vessels participating in the directed fishery for pollock in the Western reporting area or Central reporting area of the GOA will reach the applicable Chinook salmon PSC limit specified for that reporting area under paragraph (h)(2) of this section or the applicable limit following any reapportionment under paragraph (h)(5) of this section, NMFS will publish notification in the **Federal Register** closing the applicable regulatory area to directed fishing for pollock;

(ii) Vessels in a sector defined in paragraph (h)(3) of this section will reach the applicable Chinook salmon PSC limit specified for that sector under paragraph (h)(4)(i) of this section or the applicable limit following any reapportionment under paragraph (h)(5) of this section, NMFS will publish notification in the **Federal Register** closing directed fishing for all groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for that sector; or

(iii) Vessels in the Trawl catcher/processor sector defined in paragraph (h)(3)(i) of this section will reach the seasonal Chinook salmon PSC limit specified at paragraph (h)(4)(ii)(A) of this section prior to June 1, NMFS will publish notification in the **Federal**

Register closing directed fishing for all groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for all vessels in the Trawl catcher/processor sector until June 1. Directed fishing for groundfish species, other than pollock will reopen on June 1 for the Trawl catcher/processor sector defined in paragraph (h)(3)(i) of this section with the Chinook salmon PSC limit determined at paragraph (h)(4)(ii)(B) of this section unless NMFS determines that the amount of Chinook salmon PSC available to the sector is insufficient to allow the sector to fish and not exceed its annual Chinook salmon PSC limit.

[FR Doc. 2016–21808 Filed 9–9–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 176
Monday, September 12, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Doc. No. AMS–SC–16–0045; SC16–981–2 PR]

Almonds Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: Notice is hereby given that the comment period on the proposed rule to increase the assessment rate for California almonds under Marketing Order No. 981 (order) is reopened until October 12, 2016. The proposed rule would implement a recommendation from the Almond Board of California (Board) to increase the assessment rate established for the 2016–17 through the 2018–19 crop years from $0.03 to $0.04 per pound of almonds handled under the marketing order (order). Of the $0.04 per pound assessment, 60 percent (or $0.024 per pound) would be available as credit-back for handlers who conduct their own promotional activities.

DATES: Comments must be received by October 12, 2016.

ADDRESSES: Interested persons are invited to submit written comments concerning the proposal. Comments should be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue and the July 18, 2016, issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to the proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Andrea Ricci, Marketing Specialist or Jeffrey Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: with *Andrea.Ricci@ams.usda.gov* or *Jeffrey.Smutny@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on July 18, 2016 (81 FR 46616). The proposed rule would increase the assessment rate for the 2016–17 through 2018–19 crop years from $0.03 to $0.04 per pound of almonds received. Of the $0.04 per pound assessment, 60 percent (or $0.024 per pound) would be available as credit-back for handlers who conduct their own promotional activities. The assessment rate would return to $0.03 for the 2019–20 and subsequent crop years, and the amount available for handler credit-back would return to $0.018 per pound (60 percent).

USDA received a comment from an affected industry member requesting that the comment period be reopened to allow more time to comment on the proposed rule. This industry member expressed concern that while the proposed rule was published in the **Federal Register** on July 18, 2016, industry members did not receive the notification until July 28, 2016, which did not allow adequate time for interested persons to comment by the August 2, 2016, deadline.

After reviewing the request, USDA is reopening the comment period for 30 additional days. This will provide interested persons more time to review the proposed rule, perform a complete analysis, and submit written comments.

Authority: This notice is issued pursuant to the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601–674).

Dated: September 7, 2016.

Elanor Starmer,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2016–21851 Filed 9–9–16; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0059; Directorate Identifier 2013–NM–075–AD]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Embraer S.A. Model ERJ 170 airplanes. The NPRM proposed to supersede AD 2012–07–08, which requires revising the maintenance or inspection program to incorporate structural inspection requirements. The NPRM was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. Since the NPRM was issued, a new revision of the airworthiness limitations section (ALS) of the EMBRAER S.A. ERJ 170/175 Maintenance Review Board Report (MRBR) was issued, which contains more restrictive airworthiness limitations. This action revises the NPRM by proposing to require revising the maintenance or inspection program, as applicable, to incorporate the new ALS of the MRBR. This supplemental NPRM (SNPRM) would also remove certain airplanes from the applicability. In addition, we propose to supersede AD 2006–06–09, AD 2012–05–08, and AD 2012–07–08, which require tasks that are now included in the new revision of the MRBR. We are proposing

this SNPRM to detect and correct fatigue cracking of various principal structural elements; such cracking could result in reduced structural integrity of the airplane. We are also proposing this SNPRM to prevent safety-significant latent failures; such failures, in combination with one or more other specified failures or events, could result in a hazardous or catastrophic failure condition of avionics, hydraulic systems, fire detection systems, fuel systems, or other critical systems. In addition, we are also proposing this SNPRM to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions; such failures, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane. Since these actions impose an additional burden over those proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this SNPRM by October 27, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0059; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ana Martinez Hueto, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1622; fax 425–227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2014–0059; Directorate Identifier 2013–NM–075–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We issued a NPRM to amend 14 CFR part 39 by adding an AD that would apply to all Embraer S.A. Model ERJ 170 airplanes. The NPRM published in the **Federal Register** on February 27, 2014 (79 FR 11013) ("the NPRM"). The NPRM was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations were necessary. The NPRM proposed to require a revision to the maintenance or inspection program to incorporate new inspections.

Actions Since Previous NPRM Was Issued

Since we issued the NPRM, a new revision to the ALS of the EMBRAER S.A. ERJ 170/175 MRBR was issued, which contains more restrictive airworthiness limitations. The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2015–06–01, effective June 2, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition on certain Embraer S.A. Model ERJ 170 airplanes. The MCAI states:

> This [Brazilian] AD was prompted by a new revision to the airworthiness limitations of the Maintenance Review Board Report. This [Brazilian] AD is being issued to ensure that fatigue cracking of various principal structural elements is detected and corrected; such fatigue cracking, could adversely affect the structural integrity of these airplanes.

The required action is revising the maintenance or inspection program, as applicable, to incorporate the airworthiness limitations in Appendix A—"Airworthiness Limitations;" to the EMBRAER 170/175 Maintenance Review Board Report, MRB–1621, Revision 10, dated February 23, 2015, which is divided into four parts: Part 1—Certification Maintenance Requirements, Part 2—Airworthiness Limitation Inspections, Part 3—Fuel System Limitation Items, and Part 4—Life Limited Parts. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0059.

This SNPRM also proposes to supersede AD 2006–06–09, Amendment 39–14518 (71 FR 14365, March 22, 2006); AD 2012–05–08, Amendment 39–16980 (77 FR 16155, March 20, 2012); and AD 2012–07–08, Amendment 39–17014 (77 FR 24342, April 24, 2012); which require tasks that are now included in the new revision of the MRBR.

This SNPRM also proposes to remove airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or after February 23, 2015, from the applicability.

Related Service Information Under 1 CFR Part 51

Embraer S.A. has issued Part 1—"Certification Maintenance Requirements;" Part 2—"Airworthiness Limitation Inspections (ALI)—Structures;" Part 3—"Fuel System Limitation Items;" and Part 4—"Life Limited Items;" of Appendix A—"Airworthiness Limitations;" to the EMBRAER 170/175 Maintenance Review Board Report, MRB–1621, Revision 10, dated February 23, 2015. This service information describes airworthiness limitations (Part 1, Part 2, Part 3, and Part 4 of the MRBR make up the airworthiness limitations). This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Comments

We gave the public the opportunity to participate in developing this proposed AD. We considered the comment received.

Request To Refer to Revised Service Information

An anonymous commenter noted that paragraph (i) of the proposed AD (in the NPRM) included terminating action(s) for the requirements of paragraph (g) of the proposed AD (in the NPRM) if a revision to the maintenance or inspection program was accomplished by the incorporation of the tasks in Part 2—"Airworthiness Limitation Inspections (ALI)—Structures," of the EMBRAER 170 Maintenance Review Board Report, MRB–1621, Revision 8, dated August 20, 2012. The commenter stated that since August 20, 2012, five additional temporary revisions to Part 2 had been issued and the NPRM did not include the incorporation of these temporary revisions as being acceptable for compliance with the requirements of paragraph (g) of the proposed AD (in the NPRM). We infer that the commenter is requesting that the NPRM be revised to allow incorporation of the tasks in the current service information into an operator's maintenance or inspection program and that this should be acceptable for compliance with the requirements of paragraph (g) of the proposed AD (in the NPRM).

We agree with the commenter's request to refer to the current revision of the EMBRAER 170/175 MRBR, which includes the temporary revisions mentioned by the commenter. Paragraph (i) of this proposed AD has been revised to refer to the EMBRAER 170/175 Maintenance Review Board Report, MRB–1621, Revision 10, dated February 23, 2015.

FAA's Determination and Requirements of This SNPRM

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k)(1) of this proposed AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure.

Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before accomplishing the revision of the airplane maintenance or inspection program specified in this proposed AD, do not need to be reworked in accordance with the CDCCLs. However, once the airplane maintenance or inspection program has been revised as required by this proposed AD, future maintenance actions on these components must be done in accordance with the CDCCLs.

Certain changes described above expand the scope of the NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Airworthiness Limitations Based on Type Design

The FAA recently became aware of an issue related to the applicability of ADs that require incorporation of an ALS revision into an operator's maintenance or inspection program.

Typically, when these types of ADs are issued by civil aviation authorities of other countries, they apply to all airplanes covered under an identified type certificate (TC). The corresponding FAA AD typically retains applicability to all of those airplanes.

In addition, U.S. operators must operate their airplanes in an airworthy condition, in accordance with 14 CFR 91.7(a). Included in this obligation is the requirement to perform any maintenance or inspections specified in the ALS, and in accordance with the ALS as specified in 14 CFR 43.16 and 91.403(c), unless an alternative has been approved by the FAA.

When a type certificate is issued for a type design, the specific ALS, including revisions, is a part of that type design, as specified in 14 CFR 21.31(c).

The sum effect of these operational and maintenance requirements is an obligation to comply with the ALS defined in the type design referenced in the manufacturer's conformity statement. This obligation may introduce a conflict with an AD that requires a specific ALS revision if new airplanes are delivered with a later revision as part of their type design.

To address this conflict, the FAA has approved alternative methods of compliance (AMOCs) that allow operators to incorporate the most recent ALS revision into their maintenance/inspection programs, in lieu of the ALS revision required by the AD. This eliminates the conflict and enables the operator to comply with both the AD and the type design.

However, compliance with AMOCs is normally optional, and we recently became aware that some operators choose to retain the AD-mandated ALS revision in their fleet-wide maintenance/inspection programs, including those for new airplanes delivered with later ALS revisions, to help standardize the maintenance of the fleet. To ensure that operators comply with the applicable ALS revision for newly delivered airplanes containing a later revision than that specified in an AD, we plan to limit the applicability of ADs that mandate ALS revisions to those airplanes that are subject to an earlier revision of the ALS, either as part of the type design or as mandated by an earlier AD.

This proposed AD, therefore, would apply to Model ERJ 170 airplanes with an original certificate of airworthiness or original export certificate of airworthiness that was issued before the date of approval of the ALS revision identified in this proposed AD (airplanes having serial numbers 17000002, 17000004 through 17000013 inclusive, and 17000015 through 17000453 inclusive). Operators of airplanes with an original certificate of airworthiness or original export certificate of airworthiness issued on or after that date must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet.

Costs of Compliance

We estimate that this SNPRM affects 286 airplanes of U.S. registry.

The actions that are required by AD 2012–07–08, Amendment 39–17014 (77 FR 24342, April 24, 2012), and retained in this SNPRM take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the actions that were required by AD 2012–07–08 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the new basic requirements of this SNPRM. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this SNPRM on U.S. operators to be $24,310, or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing airworthiness directives AD 2006–06–09, Amendment 39–14518 (71 FR 14365, March 22, 2006); AD 2012–0508, Amendment 39–16980 (77 FR 16155, March 20, 2012); and AD 2012–07–08, Amendment 39–17014 (77 FR 24342, April 24, 2012); and

■ b. Adding the following new AD:

Embraer S.A: Docket No. FAA–2014–0059; Directorate Identifier 2013–NM–075–AD.

(a) Comments Due Date

We must receive comments by October 27, 2016.

(b) Affected ADs

This AD replaces the ADs specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD:

(1) AD 2006–06–09, Amendment 39–14518 (71 FR 14365, March 22, 2006) ("AD 2006–06–06").

(2) AD 2012–05–08, Amendment 39–16980 (77 FR 16155, March 20, 2012) ("AD 2012–05–08").

(3) AD 2012–07–08, Amendment 39—17014 (77 FR 24342, April 24, 2012) ("AD 2012–07–08").

(c) Applicability

This AD applies to Embraer S.A. Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, and –200 STD airplanes; certificated in any category; manufacturer serial numbers 17000002, 17000004 through 17000013 inclusive, and 17000015 through 17000453 inclusive.

(d) Subject

Air Transport Association (ATA) of America Codes 27, Flight controls; 28, Fuel; 52, Doors; 53, Fuselage; 54, Nacelles/pylons; 55, Stabilizers; 57, Wings; 71, Powerplant; and 78, Exhaust.

(e) Reason

This AD was prompted by a determination that more restrictive airworthiness limitations are necessary. We are issuing this AD to detect and correct fatigue cracking of various principal structural elements; such cracking could result in reduced structural integrity of the airplane. We are also issuing this AD to prevent safety-significant latent failures; such failures, in combination with one or more other specified failures or events, could result in a hazardous or catastrophic failure condition of avionics, hydraulic systems, fire detection systems, fuel systems, or other critical systems. We are also issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions; such failures, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Maintenance Program Revision, With No Changes

This paragraph restates the action required by paragraph (i) of AD 2012–07–08, with no changes.

(1) Within 60 days after May 29, 2012 (the effective date of AD 2012–07–08): Revise the maintenance program to incorporate the new or revised tasks specified in Part 2—"Airworthiness Limitation Inspection (ALI)—Structures," of Appendix A, "Airworthiness Limitations," to the EMBRAER 170 MRBR, MRB–1621, Revision 7, dated November 11, 2010; and EMBRAER Temporary Revision (TR) 7–1, dated February 11, 2011, to Part 2—"Airworthiness Limitation Inspection (ALI)—Structures," of Appendix A, "Airworthiness Limitations," to the EMBRAER 170 MRBR, MRB–1621, Revision 7, dated November 11, 2010; with the initial compliance times and intervals specified in these documents.

(2) The initial compliance times for the tasks start from the date of issuance of the original Brazilian airworthiness certificate or the date of issuance of the original Brazilian export certificate of airworthiness of the applicable airplane at the applicable time specified in the tasks, or within 600 flight cycles after revising the maintenance program, whichever occurs later. For certain tasks, the compliance times depend on the pre-modification and post-modification status of the actions specified in the associated service bulletin, as specified in the "Applicability" column of Part 2—"Airworthiness Limitation Inspection (ALI)—Structures," of Appendix A, "Airworthiness Limitations," to the EMBRAER 170 MRBR, MRB–1621, Revision 7, dated November 11, 2010; and Embraer Temporary Revision 7–1, dated February 11, 2011, to Part 2—"Airworthiness Limitation Inspection (ALI)—Structures," of Appendix A, "Airworthiness Limitations," to the EMBRAER 170 MRBR, MRB–1621, Revision 7, dated November 11, 2010.

(h) Retained No Alternative Actions Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs), With New Exception

This paragraph restates the action required by paragraph (j) of AD 2012–07–08, with a new exception. Except as required by paragraph (i) of this AD, after accomplishing the revisions required by paragraph (g) of this AD, no alternative actions (*e.g.*, inspections), intervals, and/or CDCCLs may be used other than those specified in Part 2—Airworthiness Limitation Inspection (ALI)—Structures, of Appendix A, Airworthiness Limitations, of the EMBRAER 170 MRBR MRB–1621, Revision 7, dated November 11, 2010; and EMBRAER Temporary Revision 7–1, dated February 11, 2011, to Part 2—Airworthiness Limitation Inspection (ALI)—Structures, of Appendix A, Airworthiness Limitations, of the EMBRAER 170 MRBR MRB–1621, Revision 7, unless the actions, intervals, and/or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(i) New Revision of Maintenance or Inspection Program

Within 12 months after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the airworthiness limitations specified in Part 1—"Certification Maintenance Requirements;" Part 2—"Airworthiness Limitation Inspections (ALI)—Structures;" Part 3—"Fuel System Limitation Items;" and Part 4—"Life Limited Items;" of Appendix A—"Airworthiness Limitations;" of the EMBRAER 170/175 MRBR, MRB–1621, Revision 10, dated February 23, 2015. The initial compliance times and repetitive intervals are specified in the applicable part of the EMBRAER 170/175 MRBR, MRB–1621, Revision 10, dated February 23, 2015. Accomplishing the revision to the maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(j) No Alternative Actions, Intervals, CDCCLs

After accomplishing the revision required by paragraph (i) of this AD, no alternative actions (*e.g.*, inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Ana Martinez Hueto, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1622; fax 425–227–1320. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Agência Nacional de Aviação Civil (ANAC); or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information Brazilian Airworthiness Directive 2015–06–01, effective June 2, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0059.

(2) For service information identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227-901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet http://*www.flyembraer.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 25, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21145 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9069; Directorate Identifier 2016–NM–012–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2015–16–02, for all Airbus Model A330 series airplanes. AD 2015–16–02 currently requires revising the maintenance program or inspection program to incorporate certain maintenance requirements and airworthiness limitations. Since we issued AD 2015–16–02, we received a revision of an airworthiness limitations items (ALI) document, which provides new and more restrictive maintenance requirements and airworthiness limitations for airplane structures and systems. This proposed AD would require revising the maintenance or inspection program to incorporate new maintenance requirements and airworthiness limitations. We are proposing this AD to prevent reduced structural integrity and reduced control of these airplanes due to the failure of system components.

DATES: We must receive comments on this proposed AD by October 27, 2016.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330-A340@airbus.com;* Internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9069; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1138; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9069; Directorate Identifier 2016–NM–012–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On July 28, 2015, we issued AD 2015–16–02, Amendment 39–18227 (80 FR 48019, August 11, 2015) ("AD 2015–16–02"). AD 2015–16–02 requires actions intended to address an unsafe condition on all Airbus Model A330 series airplanes. Since we issued AD 2015–16–02, Airbus issued Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015, which introduce new and more restrictive maintenance requirements and/or airworthiness limitations.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0011, dated January 13, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Airbus Model A330 and A340 series airplanes. The MCAI states:

> The airworthiness limitations are currently defined and published in the Airbus A330 and A340 Airworthiness Limitations Section (ALS) documents. The airworthiness limitations applicable to the System Equipment Maintenance Requirements, which are approved by EASA, are specified in Airbus A330 and A340 ALS Part 4. Failure to comply with these instructions could result in an unsafe condition.
>
> EASA issued AD 2013–0268 (for A330 aeroplanes) [which corresponds to FAA AD 2015–16–02] and AD 2013–0269 (for A340 aeroplanes) [which corresponds to FAA AD 2014–23–17, Amendment 39–18033 (79 FR 71304, December 2, 2014) ("AD 2014–23–17")] to require the actions as specified in Airbus A330 and A340 ALS Part 4 at Revision 04 and Revision 03, respectively.
>
> Since those [EASA] ADs were issued, Airbus issued Revision 05 and Revision 04, respectively, of Airbus A330 and A340 ALS Part 4, which introduce new and more restrictive maintenance requirements and/or airworthiness limitations.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2013–0268 and AD 2013–0269, which are superseded, and require accomplishment of the actions specified in Airbus A330 ALS Part 4 Revision 05, or A340 ALS Part 4 Revision 04, as applicable (hereafter collectively referred to as 'the ALS' in this [EASA] AD).

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9069.

Related Service Information Under 1 CFR Part 51

Airbus issued A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015. This service information describes preventative maintenance requirements and associated airworthiness limitations applicable to aircraft systems susceptible to aging effects. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

EASA AD 2016–0012, dated January 13, 2016, specifies that if there are findings from the ALS inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

In addition, the FAA recently became aware of an issue related to the applicability of FAA ADs that require incorporation of an ALS revision into an operator's maintenance or inspection program.

Typically, when these types of ADs are issued by civil aviation authorities of other countries, they apply to all airplanes covered under an identified type certificate (TC). The corresponding FAA AD typically retains applicability to all of those airplanes.

In addition, U.S. operators must operate their airplanes in an airworthy condition, in accordance with 14 CFR 91.7(a). Included in this obligation is the requirement to perform any maintenance or inspections specified in the ALS, and in accordance with the ALS as specified in 14 CFR 43.16 and 91.403(c), unless an alternative has been approved by the FAA.

When a TC is issued for a type design, the specific ALS, including revisions, is a part of that type design, as specified in 14 CFR 21.31(c).

The sum effect of these operational and maintenance requirements is an obligation to comply with the ALS defined in the type design referenced in the manufacturer's conformity statement. This obligation may introduce a conflict with an AD that requires a specific ALS revision if new airplanes are delivered with a later revision as part of their type design.

To address this conflict, the FAA has approved alternative methods of compliance (AMOCs) that allow operators to incorporate the most recent ALS revision into their maintenance/inspection programs, in lieu of the ALS revision required by the AD. This eliminates the conflict and enables the operator to comply with both the AD and the type design.

However, compliance with AMOCs is normally optional, and we recently became aware that some operators choose to retain the AD-mandated ALS revision in their fleet-wide maintenance/inspection programs, including those for new airplanes delivered with later ALS revisions, to help standardize the maintenance of the fleet. To ensure that operators comply with the applicable ALS revision for newly delivered airplanes containing a later revision than that specified in an AD, we plan to limit the applicability of ADs that mandate ALS revisions to those airplanes that are subject to an earlier revision of the ALS, either as part of the type design or as mandated by an earlier AD.

This proposed AD therefore would apply to Airbus airplanes identified in paragraph (c) of this AD with an original certificate of airworthiness or original export certificate of airworthiness that was issued on or before the date of approval of the ALS revision identified in this proposed AD. Operators of airplanes with an original certificate of airworthiness or original export certificate of airworthiness issued after that date must comply with the airworthiness limitations specified as part of the approved type design and referenced on the TC data sheet.

This proposed AD does not include Model A340 series airplanes in the applicability. AD 2014–23–17 currently address the identified unsafe condition for the Model A340 series airplanes. We have also added EASA AD 2016–0012, dated January 13, 2016, to the required airworthiness action list (RAAL) for the Model A340 series airplanes.

Costs of Compliance

We estimate that this proposed AD affects 104 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Maintenance or inspection program revision [retained actions from AD 2015-16-02].	2 work-hours × $85 per hour = $170	$0	$170	$17,680
Maintenance or inspection program revision [new proposed action].	2 work-hours × $85 per hour = $170	0	170	17,680

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2015–16–02, Amendment 39–18227 (80 FR 48019, August 11, 2015), and adding the following new AD:

Airbus: Docket No. FAA–2016–9069; Directorate Identifier 2016–NM–012–AD.

(a) Comments Due Date

We must receive comments by October 27, 2016.

(b) Affected ADs

This AD replaces AD 2015–16–02, Amendment 39–18227 (80 FR 48019, August 11, 2015) ("AD 2015–16–02").

(c) Applicability

This AD applies to Airbus A330–201, A330–202, A330–203, A330–223, A330–243, A330–223F, A330–243F, A330–301, A330–302, A330–303, A330–321, A330–322, A330–323, A330–341, A330–342, and A330–343 airplanes, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before October 19, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a revision of an airworthiness limitations items (ALI) document, which provides new and more restrictive maintenance requirements and airworthiness limitations for airplane structures and systems. We are issuing this AD to prevent reduced structural integrity and reduced control of these airplanes due to the failure of system components.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Maintenance Program Revision and Actions With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2015–16–02, with no changes. Within 6 months after September 15, 2015 (the effective date of AD 2015–16–02), revise the maintenance program or inspection program, as applicable, by incorporating Airbus A330 Airworthiness Limitations Section (ALS) Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, and Airbus A330 ALS Part 4—Aging Systems Maintenance (ASM), Variation 4.1 and Variation 4.2, both dated July 23, 2014. The initial compliance times for the actions are within the applicable compliance times specified in the Record of Revisions pages of Airbus A330 ALS Part 4—

Aging Systems Maintenance, Revision 04, dated August 27, 2013, Airbus A330 ALS Part 4—Aging Systems Maintenance (ASM), Variation 4.1 and Variation 4.2, both dated July 23, 2014, or within 6 months after September 15, 2015, whichever is later, except as required by paragraph (h) of this AD.

(h) Retained Exceptions to Initial Compliance Times With References to New Service Information

This paragraph restates the requirements of paragraph (h) of AD 2015–16–02, with references to new service information.

(1) Where Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, or A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015, define a calendar compliance time for elevator servo-controls having part number (P/N) SC4800–2, SC4800–3, SC4800–4, SC4800–6, SC4800–7, or SC4800–8 as "August 31, 2004," the calendar compliance time is June 13, 2007 (34 months after August 13, 2004 (the effective date of AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004))).

(2) Where Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, or A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015, define a calendar compliance time for spoiler servo-controls (SSCs) having P/N 1386A0000–01, P/N 1386B0000–01, P/N 1387A0000–01 or P/N 1387B0000–01 as "December 31, 2003," the calendar compliance time is November 19, 2005 (13 months after October 19, 2004 (the effective date of AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004))).

(3) Where Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, or A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015, define a calendar compliance time for elevator servo-controls having P/N SC4800–73, SC4800–93, SC4800–103 and SC4800–113 as "June 30, 2008," the calendar compliance time is September 16, 2009 (17 months after April 16, 2008 (the effective date of AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)))).

(4) The initial compliance time for replacement of the retraction brackets of the main landing gear (MLG) having a part number specified in paragraphs (h)(4)(i) through (h)(4)(xvi) of this AD is before the accumulation of 19,800 total landings on the affected retraction brackets of the MLG, or within 900 flight hours after April 9, 2012 (the effective date of AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012)), whichever occurs later.

(i) 201478303.
(ii) 201478304.
(iii) 201478305.
(iv) 201478306.
(v) 201478307.
(vi) 201478308.
(vii) 201428380.
(viii) 201428381.
(ix) 201428382.
(x) 201428383.
(xi) 201428384.
(xii) 201428385.
(xiii) 201428378.
(xiv) 201428379.
(xv) 201428351.
(xvi) 201428352.

(5) Where Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, or A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015, define a calendar compliance time for the modification of SSCs on three hydraulic circuits having part numbers MZ4339390–01X, MZ4306000–01X, MZ4339390–02X, MZ4306000–02X, MZ4339390–10X, or MZ4306000–10X as "March 5, 2010," the calendar compliance time is April 14, 2011 (18 months after October 14, 2009 (the effective date of AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009))).

(6) Where Note (6) of "ATA 27–64–00 Flight Control—Spoiler Hydraulic Actuation," of Sub-part 4–2–1, "Life Limits," of Sub-part 4–2, "Systems Life Limited Components," of Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, or Note (17) of Sub-Part 1 "Life Limits" of Section 3 "System Life-Limited Components" of A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015, define a calendar date of "September 5, 2008," as a date for the determination of accumulated flight cycles since the aircraft initial entry into service, the date is October 14, 2009 (the effective date of AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009)).

(7) Where Note (6) of "ATA 27–64–00 Flight Control—Spoiler Hydraulic Actuation," of Sub-part 4–2–1, "Life Limits," of Sub-part 4–2, "Systems Life Limited Components," of Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, or Note (17) of Sub-Part 1 "Life Limits" of Section 3 "System Life-Limited Components" of A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015, define a calendar compliance time as "March 5, 2010," for the modification of affected servo controls, the calendar compliance time is April 14, 2011 (18 months after October 14, 2009 (the effective date of AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009))).

(i) Retained No Alternative Actions or Intervals With Revised Compliance Language

This paragraph restates the requirements of paragraph (i) of AD 2015–16–02, with revised compliance language. Except as required by paragraph (j) of this AD: After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.*, inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

(j) New Requirement of This AD: Maintenance Program Revision and Actions

Within 90 days after the effective date of this AD, revise the maintenance program or inspection program, as applicable, by incorporating Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015. The initial compliance times for the actions specified in Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015, are within the applicable compliance times specified in Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015, or within 60 days after the effective date of this AD, whichever is later, except as required by paragraph (h) of this AD. Accomplishing the revision of the maintenance program or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) New Requirement of This AD: No Alternative Actions or Intervals

After accomplishing the revision required by paragraph (j) of this AD, no alternative actions (*e.g.*, inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) AMOCs: The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1138; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 2015–16–02 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved

by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0011, dated January 13, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9069.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330-A340@airbus.com;* Internet: *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 25, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21163 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9057; Directorate Identifier 2016–NM–055–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2014–26–08, for all Airbus Model A330–200, –200F, and –300 series airplanes. AD 2014–26–08 currently requires revising the maintenance or inspection program to incorporate new maintenance requirements and airworthiness limitations. Since we issued AD 2014–26–08, we have determined that more restrictive maintenance instructions and airworthiness limitations are necessary. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate new or revised airworthiness limitation requirements. This proposed AD would also remove certain airplanes from the applicability. We are proposing this AD to prevent safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

DATES: We must receive comments on this proposed AD by October 27, 2016.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9057; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9057; Directorate Identifier 2016–NM–055–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On December 19, 2014, we issued AD 2014–26–08, Amendment 39–18059 (80 FR 3866, January 26, 2015) ("AD 2014–26–08"). AD 2014–26–08 requires actions intended to address an unsafe condition on all Airbus Model A330–200, –200F, and –300 series airplanes.

Since we issued AD 2014–26–08, we have determined that more restrictive instructions and airworthiness limitations are necessary.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0066, dated April 6, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Model A330–200, –200F, and –300 series airplanes. The MCAI states:

> The airworthiness limitations are currently defined and published in the Airbus A330 and A340 Airworthiness Limitations Section (ALS) documents.
>
> The mandatory instructions and airworthiness limitations applicable to the Certification Maintenance Requirements (CMR), which are approved by EASA, are specified in Airbus A330 and A340 ALS Part 3. Failure to comply with these instructions could result in an unsafe condition.
>
> EASA issued AD 2013–0245 (A330 aeroplanes) and AD 2013–0021 (A340 aeroplanes) to require the actions as specified in Airbus A330 and A340 ALS Part 3 at Revision 04 and Revision 02, respectively.
>
> Since those [EASA] ADs were issued, Airbus issued Revision 05 and Revision 03, respectively, of Airbus A330 and A340 ALS Part 3, to introduce more restrictive maintenance requirements.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2013–0245 and [EASA] AD 2013–0021,

which are superseded, and requires accomplishment of the actions specified in Airbus A330 ALS Part 3 Revision 05, or A340 ALS Part 3 Revision 03, as applicable * * *.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2016–9057.

Related Service Information Under 1 CFR Part 51

Airbus has issued Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 05, dated October 19, 2015. The service information describes updated inspections and intervals to be incorporated into the maintenance or inspection program. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the airworthiness limitations section (ALS) inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

Although the MCAI recommends accomplishing the maintenance program revision within 12 months, this proposed AD requires accomplishment within 90 days. We find that a compliance time of 12 months would not address the unsafe condition soon enough to maintain an adequate level of safety for the affected fleet. In developing an appropriate compliance time for this AD, we considered the degree of urgency associated with addressing the unsafe condition, and the maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety. We find 90 days an appropriate compliance time to complete this revision.

These differences have been coordinated with the EASA and Airbus.

Airworthiness Limitations Based on Type Design

The FAA recently became aware of an issue related to the applicability of ADs that require incorporation of an ALS revision into an operator's maintenance or inspection program.

Typically, when these types of ADs are issued by civil aviation authorities of other countries, they apply to all airplanes covered under an identified type certificate (TC). The corresponding FAA AD typically retains applicability to all of those airplanes.

In addition, U.S. operators must operate their airplanes in an airworthy condition, in accordance with 14 CFR 91.7(a). Included in this obligation is the requirement to perform any maintenance or inspections specified in the ALS, and in accordance with the ALS as specified in 14 CFR 43.16 and 91.403(c), unless an alternative has been approved by the FAA.

When a type certificate is issued for a type design, the specific ALS, including revisions, is a part of that type design, as specified in 14 CFR 21.31(c).

The sum effect of these operational and maintenance requirements is an obligation to comply with the ALS defined in the type design referenced in the manufacturer's conformity statement. This obligation may introduce a conflict with an AD that requires a specific ALS revision if new airplanes are delivered with a later revision as part of their type design.

To address this conflict, the FAA has approved alternative methods of compliance (AMOCs) that allow operators to incorporate the most recent ALS revision into their maintenance/inspection programs, in lieu of the ALS revision required by the AD. This eliminates the conflict and enables the operator to comply with both the AD and the type design.

However, compliance with AMOCs is normally optional, and we recently became aware that some operators choose to retain the AD-mandated ALS revision in their fleet-wide maintenance/inspection programs, including those for new airplanes delivered with later ALS revisions, to help standardize the maintenance of the fleet. To ensure that operators comply with the applicable ALS revision for newly delivered airplanes containing a later revision than that specified in an AD, we plan to limit the applicability of ADs that mandate ALS revisions to those airplanes that are subject to an earlier revision of the ALS, either as part of the type design or as mandated by an earlier AD.

This proposed AD therefore would apply to the airplanes identified in paragraph (c) of this AD with an original certificate of airworthiness or original export certificate of airworthiness that was issued on or before the date of approval of the ALS revision identified in this proposed AD. Operators of airplanes with an original certificate of airworthiness or original export certificate of airworthiness issued after that date must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet.

Costs of Compliance

We estimate that this proposed AD would affect 104 airplanes of U.S. registry.

The actions required by AD 2014–26–08, and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2014–26–08 is $85 per product.

We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $17,680, or $170 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive AD 2014–26–08, Amendment 39–18059 (80 FR 3866, January 26, 2015), and adding the following new AD:

Airbus: Docket No. FAA–2016–9057; Directorate Identifier 2016–NM–055–AD.

(a) Comments Due Date

We must receive comments by October 27, 2016.

(b) Affected ADs

This AD replaces AD 2014–26–08, Amendment 39–18059 (80 FR 3866, January 26, 2015) ("AD 2014–26–08").

(c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –223F –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before October 19, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 05, Periodic inspections.

(e) Reason

This AD was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. We are issuing this AD to prevent safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained: Revision of the Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2014–26–08, with no changes.

(1) Within 90 days after March 2, 2015 (the effective date of AD 2014–26–08): Revise the maintenance or inspection program, as applicable, to incorporate Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 04, dated August 27, 2013. Within the applicable compliance time defined in the "Record of Revisions" section of Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 04, dated August 27, 2013, except as provided by paragraph (g)(2) of this AD, accomplish all applicable maintenance tasks. Accomplishing the actions specified in paragraph (i) of this AD terminates the requirements of this paragraph.

(2) Where paragraph 3 of the "Record of Revisions" section of Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 04, dated August 27, 2013, specifies accomplishing the actions "from 27 August 2013," this AD requires compliance within the specified compliance time after March 2, 2015 (the effective date of AD 2014–26–08).

(h) Retained: No Alternative Inspections or Intervals, With No Changes

This paragraph restates the requirements of paragraph (l) of AD 2014–26–08, with no changes. After accomplishment of the action required by paragraph (g)(1) of this AD, no alternative inspections or inspection intervals may be used, other than those specified in Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 04, dated August 27, 2013, except as provided by paragraphs (g)(2) and (i) of this AD, unless the inspections or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(i) New: Revision of the Maintenance or Inspection Program

Within 90 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, to incorporate Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 05, dated October 19, 2015. Accomplishing the actions specified in this paragraph terminates the requirements of paragraph (g) of this AD.

(j) New: No Alternative Inspections or Intervals

After the action required by paragraph (i) of this AD has been done, no alternative inspections or inspection intervals may be used, other than those specified in Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 05, dated October 19, 2015, unless the inspections or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0066, dated April 6, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9057.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21164 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9066; Directorate Identifier 2014–NM–113–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2011–10–17, for all Airbus Model A300 and A310 series airplanes, and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes). AD 2011–10–17 currently requires revising the maintenance program by incorporating certain airworthiness limitation items (ALIs). Since we issued AD 2011–10–17, the manufacturer has revised certain ALI documents, which specify more restrictive instructions and/or airworthiness limitations. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate new or revised structural inspection requirements. This proposed AD would also remove Model A310 and A300–600 series airplanes from the applicability. We are proposing this AD to detect and correct fatigue cracking, damage, and corrosion in certain structure; such fatigue cracking, damage, and corrosion could result in reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by October 27, 2016.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9066; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9066; Directorate Identifier 2014–NM–113–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On May 2, 2011, we issued AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011) ("AD 2011–10–17"). AD 2011–10–17 requires actions intended to address an unsafe condition on all Airbus Model A300 and A310 series airplanes, and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes).

Since we issued AD 2011–10–17, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued Airworthiness Directive 2015–0115, dated June 23, 2015; (collectively referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI") to correct an unsafe condition. The MCAI states:

> The airworthiness limitations applicable to the Damage Tolerant Airworthiness Limitation Items (DT ALIs) are currently listed in the Airbus Airworthiness Limitations Sections [ALS] Part 2.
>
> Airbus recently revised the A300 ALS Part 2 and this Revision 02 was approved by EASA. Airbus A300 ALS Part 2 Revision 02 introduces more restrictive maintenance requirements and airworthiness limitations, which have been identified as mandatory actions for continued airworthiness.
>
> EASA issued AD 2014–0124 to require compliance with the maintenance requirements and associated airworthiness limitations defined in Airbus A300 ALS Part 2 Revision 01.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2014–0124 for A300 aeroplanes and requires implementation of new or more restrictive maintenance instructions and/or airworthiness limitations as specified in Airbus A300 ALS Part 2 Revision 02.
>
> The requirements for A310 and A300–600 aeroplanes remain unchanged and are covered by EASA AD 2014–0124R1 [FAA AD 2013–13–13, Amendment 39–17501 (79 FR 47857, August 19, 2014), contains the corresponding requirements for the Model A300–600 and A310 series airplanes].

The unsafe condition is fatigue cracking, damage, or corrosion in certain structure (principal structural elements), which could result in reduced structural integrity of the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9066.

Related Service Information Under 1 CFR Part 51

Airbus has issued Airbus A300 Airworthiness Limitations Section Part 2, Damage-Tolerant Airworthiness Limitation Items (DT ALIs), Revision 02, dated October 3, 2014. This service information describes airworthiness limitations applicable to the DT ALIs.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this proposed AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure.

Costs of Compliance

We estimate that this proposed AD affects 11 airplanes of U.S. registry.

The actions that are required by AD 2011–10–17 and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2011–10–17 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $935, or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011), and adding the following new AD:

Airbus: Docket No. FAA–2016–9066; Directorate Identifier 2014–NM–113–AD.

(a) Comments Due Date

We must receive comments by October 27, 2016.

(b) Affected ADs

This AD replaces AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011) ("AD 2011–10–17").

(c) Applicability

This AD applies to all Airbus Model A300 B2–1A, B2–1C, B4–2C, B2K–3C, B4–103, B2–203, and B4–203 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Codes 52, Doors; 53, Fuselage; 54, Nacelles/pylons; 55, Stabilizers; and 57, Wings.

(e) Reason

This AD was prompted by a revision of certain airworthiness limitations items (ALI) documents, which specify more restrictive instructions and/or airworthiness limitations. We are issuing this AD to detect and correct fatigue cracking, damage, and corrosion in certain structure; such fatigue cracking, damage, and corrosion could result in reduced structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Revision of the ALS of the Instructions for ICA, With Changes

This paragraph restates the requirements of paragraph (s) of AD 2011–10–17, with changes. Within 3 months after June 17, 2011 (the effective date of AD 2011–10–17): Revise the maintenance program to incorporate the structural inspections and inspection intervals defined in the Airbus A300 ALI Document AI/SE–M2/95A.1308/07, Issue 4, dated June 2008. Thereafter, except as required by paragraph (h) of this AD and except as provided by paragraph (j)(1) of this AD, no alternative structural inspections and inspection intervals may be approved. The actions must be accomplished in accordance with the applicable issue of the ALI. The initial ALI tasks must be done at the times specified in Airbus A300 ALI Document AI/

SE–M2/95A.1308/07, Issue 4, dated June 2008.

(h) New Requirement of This AD: Maintenance or Inspection Program Revision

Within 3 months the effective date of this AD: Revise the maintenance program or inspection program, as applicable, to incorporate the structural inspections and inspection intervals defined in Airbus A300 ALS Part 2, Damage-Tolerant Airworthiness Limitation Items, Revision 02, dated October 3, 2014. The initial compliance time for the ALI tasks identified in Airbus A300 ALS Part 2, Damage-Tolerant Airworthiness Limitation Items, Revision 02, dated October 3, 2014, is at the applicable times specified in Airbus A300 ALS Part 2, Damage-Tolerant Airworthiness Limitation Items, Revision 02, dated October 3, 2014, or within 3 months after the effective date of this AD, whichever occurs later. Accomplishing the applicable initial ALI tasks constitutes terminating action for the requirements of paragraphs (g) of this AD for that airplane only.

(i) No Alternative Actions and Intervals

After the maintenance or inspection program has been revised as required by paragraph (h) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 2011–10–17 are approved as AMOCs for the corresponding provisions of this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0124R1, dated June 23, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9066.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 24, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21149 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AB15

Energy Labeling Rule

AGENCY: Federal Trade Commission ("FTC" or "Commission").

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes amendments to the Energy Labeling Rule to require labels for portable air conditioners, large-diameter and high-speed small diameter ceiling fans, and instantaneous electric water heaters. Additionally, it proposes eliminating certain marking requirements for plumbing products.

DATES: Written comments must be received on or before November 14, 2016.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Energy Labeling Amendments (16 CFR part 305) (Project No. R611004)" on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/plumbingnprm,* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex E), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex E), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, (202) 326–2889, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission issued the Energy Labeling Rule ("Rule") in 1979,[1] pursuant to the Energy Policy and Conservation Act of 1975 (EPCA).[2] The Rule requires energy labeling for major home appliances and other consumer products to help consumers compare competing models. It also contains labeling requirements for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, furnaces, central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions.

The Rule requires manufacturers to attach yellow EnergyGuide labels to many of the covered products and prohibits retailers from removing these labels or rendering them illegible. In addition, it directs sellers, including retailers, to post label information on Web sites and in paper catalogs from which consumers can order products. EnergyGuide labels for most covered products contain three key disclosures: Estimated annual energy cost, a product's energy consumption or energy efficiency rating as determined by DOE test procedures, and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models. For cost calculations, the Rule specifies national average costs for applicable energy sources (*e.g.,* electricity, natural gas, oil) as calculated by DOE. Under the Rule, the Commission periodically updates comparability range and annual energy cost information based on manufacturer data submitted pursuant to the Rule's reporting requirements.[3]

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[1] 44 FR 66466 (Nov. 19, 1979).

[2] 42 U.S.C. 6294. EPCA also requires the Department of Energy (DOE) to develop test procedures that measure how much energy appliances use, and to determine the representative average cost a consumer pays for different types of energy.

II. Proposed Amendments to the Energy Labeling Rule

The Commission seeks comments on issues related to recent DOE regulatory actions or new issues raised by commenters in response to a November 2, 2015 Notice of Proposed Rulemaking ("2015 NPRM" or "NPRM") (80 FR 67351), including portable air conditioner labeling, large-diameter and high-speed small-diameter ceiling fan labels, electric instantaneous water heater labeling, and plumbing disclosures changes.[4]

A. Portable Air Conditioners

Background: In the 2015 NPRM, the Commission sought comment on labeling for portable air conditioners (portable ACs) in response to a DOE proposal designating portable air conditioners as covered products under EPCA.[5] Given the similarity of portable air conditioners to room air conditioners (room ACs), the Commission proposed requiring the same or similar labeling for the two products. In addition, the Commission proposed requiring such labels after DOE completes its portable air conditioner test procedure rulemaking.

In support of this position, the Commission stated that labels for this product category are likely to assist consumers in their purchasing decisions. It is also stated such labels would be economically and technologically feasible.[6] Portable air conditioners are common in the marketplace, use energy equivalent to already-covered room air conditioners, and vary in their energy use. Specifically, DOE has reported that the aggregate energy use of portable ACs has been increasing as these units have become popular in recent years.[7] DOE also estimated that these products have a large efficiency rating range (approximately 8.2–14.3 Energy Efficiency Ratio (EER)). In addition, DOE estimated average per-household annual electricity consumption for these products at approximately 650 kWh/yr (750 kWh/yr for EER 8.2, and 400 kWh/yr for EER 14.3). Thus, the Commission stated in the 2015 NPRM that energy labeling for these products is likely to assist consumers with their purchasing decisions by allowing them to compare competing models' energy costs. In addition, because these products closely resemble room air conditioners, which are currently labeled under the Rule, the burdens and benefits of labeling these products should not differ significantly from those already applicable to room air conditioners.

Therefore, the Commission proposed requiring labels for portable air conditioners identical to the current room air conditioner label in content and format. The proposed amendments included the DOE's proposed definition of "portable air conditioner" in section 305.3.[8] These amendments would include separate ranges for portable air conditioners in the Rule's appendices, which the Commission would publish after data becomes available. The Commission did not propose combining the ranges with room air conditioners, stating that it was not clear whether consumers routinely compare portable air conditioners to room air conditioners. In addition, consistent with requirements applicable to room air conditioners, the Commission proposed establishing reporting requirements identical to DOE's for these products. The Commission also explained that it would not make a final determination on labeling until DOE issued a final test procedure and defined "portable air conditioner."[9] The NPRM stated that the Commission would provide manufacturers adequate time to test their products and report energy data before they must begin complying with any labeling requirements.[10]

Comments: Commenters generally supported requiring EnergyGuide labels for portable air conditioners. For instance, the Joint Commenters agreed that requiring EnergyGuide labels for portable air conditioners will likely assist consumers in making purchasing decisions and be economically and technologically feasible. As discussed below, the commenters also addressed the comparative information for these labels and the timing of the potential requirements. Although commenters generally supported labeling for portable ACs, they differed about the comparability information on the label. AHAM agreed with the Commission's initial proposal not to combine ranges for portable and room air conditioners. The Joint Commenters disagreed and specifically recommended a second range bar comparing room and portable air conditioners of similar capacity. They explained that consumer questions posted on shopping Web sites suggest that many consumers directly compare the two product types and use portable units in a manner similar to room air conditioners. In addition, some retailers market portable air conditioners as energy-efficient alternatives to room air conditioners.

Commenters also addressed the timing of DOE's test procedure and the FTC's labeling requirement. The California IOUs agreed that FTC should wait until DOE finalizes the test procedure for portable air conditioners before requiring an EnergyGuide label. They explained that the DOE procedure is likely to include new metrics to address portable air conditioners' performance comparability, peak-demand performance, and actual usage. AHAM strongly urged the Commission to align the label implementation date to coincide with DOE's compliance date for energy conservation standards. Given the considerable burdens associated with designing products to meet such standards, AHAM noted that EPCA sets a five-year lead-in period for manufacturers to comply.[11] During that period, companies must ensure that new and existing products meet the applicable standard. According to AHAM, the pre-development, development, and tooling phases for new product launches can take years and require extensive company resources, time, and coordination. AHAM cautioned that any requirement to distribute labels prior to the DOE standards compliance date will require companies to divert resources from developing new, more efficient products.[12] In addition, in AHAM's view, if FTC requires labels before this date, manufacturers would have to test and label all the low-efficiency models they plan to discontinue because such models do not meet the DOE standards.[13]

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[3] 16 CFR 305.10.

[4] The comments received in response to the 2015 NPRM are here: *https://www.ftc.gov/policy/public-comments/initiative-601*. The comments included: Association of Home Appliance Manufacturers (AHAM) (#00016); CSA Group (#00007); California Investor Owned Utilities (California IOUs) (#00019); Earthjustice ("Joint Commenters") (#00018); International Association of Plumbing and Mechanical Officials (IAPMO) (#00022); NSF International (#00005); and Plumbing Manufacturers International (PMI) (#00006).

[5] *See* 78 FR 40403 (July 5, 2013); 42 U.S.C. 6292. Portable air conditioners are movable units, unlike room air conditioners, which are permanently installed on the wall or in a window.

[6] *See* 42 U.S.C. 6294(a)(3).

[7] *See* 78 FR at 40404–05; *Technical Support Document: Energy Efficiency; Program for Consumer Products and Commercial and Industrial Equipment: Portable Air Conditioners.* U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy (Feb. 18, 2015), *http://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-STD-0033-0007.*

[8] To effect new labeling requirements, the proposed amendments insert the term "portable air conditioner" next to "room air conditioner" into appropriate sections of 305.2 (definitions), 305.3 (description of covered products), 305.7 (determinations of capacity), 305.8 (submission of data), 305.11 (labeling for appliances), and 305.20 (catalog requirements).

[9] DOE published a proposed test procedure on February 25, 2015 (80 FR 10212).

[10] Under EPCA, any energy representations on the label must reflect the DOE test results. 42 U.S.C. 6293(c).

[11] *See* 42 U.S.C. 6295(l).

Discussion: Consistent with the comments, the Commission continues to conclude that labeling for portable air conditioners will aid consumers in their purchasing decisions. On June 1, 2016 (81 FR 35242), DOE issued a final test procedure for these products, thus establishing a means to test and label them.

However, the content and timing of DOE's new test procedure raises several new issues. First, in its test procedure notice, DOE explained that its test procedures do not generate comparable results for portable and room air conditioners. In response to stakeholder concerns about this inconsistency, DOE plans to consider amending the room air conditioner procedure to address this issue. However, it is not clear when this change will occur. In the meantime, the inconsistent results might lead consumers to draw inaccurate conclusions regarding comparative yearly energy cost estimates. However, such problems will arise only if consumers consider portable and room air conditioners to be reasonable substitutes for one another. The Commission raised this issue in the NPRM. In declining to propose combined portable AC and room AC comparability ranges, the Commission stated that "it is not clear whether consumers routinely compare portable air conditioners to room air conditioners when shopping."[14] As discussed above, commenters split in their opinions on this issue. AHAM, without elaboration, agreed with the Commission's proposal to keep the ranges separate. In contrast, the Joint Commenters, citing several examples, asserted that consumers do, in fact, make such comparisons. Likewise, DOE stated in its recent test procedure Notice that "comparative ratings between room ACs and portable ACs [are] desirable," implying that consumers do compare these products.[15] Given the possibility that the two labels would lead consumers to make inaccurate comparisons between portable AC and room AC models, the Commission proposes waiting to issue final portable air conditioner labels until the two test procedures are harmonized. In addition, once such harmonized data is available, the Commission proposes combining range categories for portable ACs and room ACs given commenter evidence suggesting consumers do, in fact, compare the two product types.[16] The Commission seeks comment on all aspects of this proposal.[17]

Second, the Commission seeks comment on the timing and content of reporting requirements for portable air conditioners. The NPRM indicated that the Commission would simply follow DOE's reporting requirements for these products. However, at this time, DOE has not established such provisions. Given the current absence of DOE reporting requirements, commenters should address the types of information that FTC should collect pending DOE reporting rules.

Finally, now that DOE has issued a final test procedure and is proceeding to set a compliance date for efficiency standards, the Commission seeks input on the overall timing of label requirements. The 2015 NPRM explained the Commission would establish labeling requirements sometime after the test procedure's publication. However, industry commenters, citing significant burdens associated with testing and labeling, urged the Commission to synchronize any new labeling requirements with the DOE standards compliance date. In light of these concerns, the Commission seeks comments on whether the final label requirement should coincide with the future DOE standards compliance date or the Commission should require the new labels sooner.

B. Large-Diameter and High-Speed Small Diameter Ceiling Fan Labels

The Commission recently issued updated ceiling fan labels, which the Commission will require on all fan boxes within two years. In publishing the new label, the Commission excluded large-diameter fans (*i.e.,* 84 inches or greater in diameter) and high-speed small-diameter (HSSD) fans because the new DOE test procedure prescribes significantly different operating assumptions (hours per day) for these models.[18] The DOE test procedure dictates a 6.4-hour per day operating assumption for standard fans but a 12-hour per day figure for large-diameter and HSSD models.[19] As a result, the DOE test yields substantially different yearly cost estimates for fans with the same power consumption. Absent adequate disclosures alerting consumers to the different operating assumptions on these models, the resulting inconsistencies could be confusing or even misleading. Accordingly, the Commission seeks comment on the need for, and content of, large-diameter and HSSD fan labels. Commenters should address whether EnergyGuide labels or other required labels for these two fan types are necessary to help consumers make purchasing decisions, whether consumers commonly compare these fan types to more conventional fans, and, if so, what information is necessary on the labels or other disclosures to prevent confusion.

C. Electric Instantaneous Water Heaters

The Commission also proposes to require EnergyGuide labels for electric instantaneous water heaters. Although the current Rule includes such products in the "water heater" definition (section 305.3), DOE's test procedure has not included provisions for measuring the annual energy consumption of electric instantaneous models. Therefore, the Commission has not required labels for such products. However, DOE has updated its test procedure to include such a measurement.[20] Accordingly, the

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[12] AHAM also explained that it will take significant time for manufactures to determine the list of active models and, out of those models, identify those that qualify as "basic models" under DOE and FTC regulations.

[13] Finally, AHAM noted that the testing and labeling involved would be more burdensome than the estimates included in the Paperwork Reduction Act analysis of the 2015 NPRM. Specifically, AHAM estimated: 32 hours per model for testing (8 hours × 4 units, as well as up to 4 hours for preparing the data); 40 hours per model for reporting; and 40 hours per model for label preparation. It is unclear whether AHAM's reporting burden estimate refers to annual certification reports or to new model reports. Annual reports include all models under current production (including models previously reported to the database). It is also unclear whether an estimate of 40 hours for label drafting is per model rather than, perhaps more justifiably, per product type or per manufacturer. As noted in the Paperwork Reduction Act discussion below, the Commission seeks clarification regarding these estimates.

[14] 80 FR at 67357.

[15] 81 FR at 35251. DOE also noted "the many similarities between room ACs and portable ACs in design, cost, functionality, consumer utility, and applications." *See* 81 FR at 35250.

[16] The Commission proposes to group the ranges by size only and not by product configuration (*e.g.,* reverse cycle or louvered sides).

[17] Consistent with the Commission's recent decision on room air conditioners, the portable AC label would appear on the product box, not the unit itself. In addition, the portable AC label would disclose the Combined Energy Efficiency Ratio (CEER). 80 FR 67285, 67292 (Nov. 2, 2015).

[18] 81 FR 48620 (July 25, 2016). In its proposed test procedure Notice, DOE described a HSSD fan as a model that has a blade thickness of less than 3.2 mm at the edge or a maximum tip speed greater than applicable limits set out by DOE and does not otherwise qualify as "a very small-diameter ceiling fan, highly-decorative ceiling fan or belt-driven ceiling fan." DOE also explained that "HSSD ceiling fans generally operate at much higher speeds (in terms of RPM) than standard or hugger ceiling fans, and are installed in commercial applications." 81 FR 1688, 1700, and 1703 (Jan. 13, 2016).

[19] 81 FR at 48645.

[20] 79 FR 40542 (July 11, 2014).

Commission proposes to amend the Rule to require labeling, and publish comparability ranges for use on these products in a final Rule. The labels will follow the same format and content as other covered water heaters. The final Rule will require manufacturers to begin using labels on their products within 180-days of the final Rule.

D. Plumbing ASME Reference Update

Background: The Commission also proposed to update the marking and labeling requirements in Section 305.16 to reference the current ASME standards for showerheads and faucets (“A112.18.1”), as well as water closets and urinals (“A112.19.2”). The proposed change would update these references by removing the letter “M,” which appeared in older, obsolete versions of the standards' titles (*e.g.,* “A112.18.1M”). Under the proposal, the Rule would require the markings to read “A112.18.1” and “A112.19.2” respectively, making them consistent with the current designations referenced in existing DOE water efficiency standards (10 CFR part 430). EPCA directs the Commission to amend the labeling requirements to be consistent with any revisions to these ASME standards, unless the Commission finds such amendments would be inconsistent with EPCA's purposes and labeling requirements.[21] In the proposal, the Commission indicated it had found no such inconsistency. Given the routine nature of this change and the minimal impact it would have on consumers, the Commission proposed providing manufacturers with two years to revise the marking on their affected plumbing products to include the updated reference.

Comments: In response, plumbing manufacturers and standards organizations, including CSA, IAPMO, PMI, and NSF, recommended the Commission remove this marking requirement for showerheads and faucets (A112.18.1), as well as water closets and urinals (A112.19.2).[22] The commenters offered several different reasons. First, NSF and PMI argued that consumers are unaware of the marking's relevance. They explained that consumers do not associate the ASME markings with product performance. PMI and CSA also noted that the Energy Labeling Rule does not require such markings for most other covered products, such as appliances, subject to similar standards.[23] Second, the commenters (*e.g.,* IAPMO, NSF) asserted that existing requirements, as well any revisions to them, impose unnecessary and unreasonable burdens without any corresponding benefit. NSF explained that the marking requirements are particularly burdensome for products that have limited surface space. Third, according to the commenters, the Rule's marking requirements are no longer necessary because the ASME standards themselves no longer require such markings and all applicable plumbing codes now impose similar disclosures and require manufacturers to third-party certify their products to the current applicable standard.[24]

Discussion: The Commission agrees with commenters that the required marking appears to have outlived its usefulness, and that its removal likely will have no negative impact on consumers or other market participants. In addition, as noted in the comments, the current revisions of both ASME standards no longer require these markings. Because the NPRM did not seek comments on this substantial change, the Commission has provided amendatory language in this Notice and seeks comment on this issue.

III. Request for Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before November 14, 2016. Write “Energy Labeling Amendments (16 CFR part 305) (Project No. R611004)” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *https://www.ftc.gov/policy/public-comments.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as discussed in section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/plumbingnprm,* by following the instruction on the Web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex E), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex E), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this NPRM and the news release describing it. The

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[21] 42 U.S.C. 6294(a)(2)(E).

[22] The commenters recommended that, consistent with EPCA's requirements (42 U.S.C. 6294(a)(2)(E)(i) and 42 U.S.C. 6294(a)(2)(F)(i)), the Commission retain the flow rate and water use disclosures for these products to continue to help consumers with their purchasing decisions. The commenters also explained that the “M” designation, a now obsolete reference to metric that was in the standard's title when Congress first required marking, has since been removed from the titles of both standards.

[23] CSA noted that Canada does not require a similar federal marking requirement, and that this has not harmed Canadian residents.

[24] At the time the Commission promulgated the marking regulations, no such third-party requirements existed. According to the commenters, third-party certification also requires a small certification mark on the product as well as periodic product and manufacturing facilities auditing to ensure ongoing compliance. Additionally, certifiers maintain public listings on their Web sites, which allows verification of product compliance.

FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before November 14, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*. Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an oral hearing regarding these proposed amendments. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the **Federal Register** stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit a hearing request, on or before October 4, 2016, in the form of a written comment that describes the issues on which the party wishes to speak. If there is no oral hearing, the Commission will base its decision on the written rulemaking record.

IV. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act (PRA). OMB has approved the Rule's existing information collection requirements through May 31, 2017 (OMB Control No. 3084–0069). The proposed amendments make changes in the Rule's labeling requirements that will increase the PRA burden as detailed below.[25] Accordingly, FTC staff will submit this notice of proposed rulemaking and associated Supporting Statement to OMB for review under the PRA.[26]

Burden estimates below are based on Census data, DOE figures and estimates, general knowledge of manufacturing practices, and trade association advice and figures. The FTC estimates that there are about 450 basic models (*i.e.,* units with essentially identical physical and electrical characteristics) affected by these amendments, including 100 electric instantaneous water heater models, 130 large-diameter and 70 high-speed small diameter fan models, and 150 portable air conditioner models. In addition, FTC staff estimates that there are 6 instantaneous water heater manufacturers, 20 ceiling fan manufacturers (of large-diameter and high-speed small diameter models), and 45 portable air conditioner manufacturers. The FTC estimates that there are approximately 2,700,000 ceiling fan units (of the type relevant here), 1,000,000 portable air conditioner units, and 100,000 electric instantaneous water heaters shipped each year in the U.S.

Reporting: FTC staff estimates that the average reporting burden for manufacturers will be approximately two minutes to enter label data per basic model. Subject to further public comment, including AHAM clarification regarding its reporting burden estimate, the FTC estimates that annual reporting burden is approximately 15 hours [(2 minutes × 450 models)].

Labeling: The FTC additionally seeks further public comment on its burden estimate for labeling, including AHAM clarification of its proffered estimate for portable AC labeling. Provisionally, and tied to prior FTC burden estimates for labeling focused on the time to affix product labels, FTC staff estimates burden to be six seconds per unit; accordingly, 6,334 hours (six seconds × 3,800,000 total annual product shipments).

Testing: Manufacturers will require approximately 3 hours to test each new basic ceiling fan model, 24 hours for each water heater, and 36 hours for portable air conditioners.[27] The FTC estimates that, on average, 50% of the total basic models are tested each year. Accordingly, the estimated annual testing burden for the three affected products categories is 4,200 hours [ceiling fans—300 hours (3 hours × 200 × .5); water heaters—1,200 hours (24 hours × 100 × .5); and PACs—2,700 hours (36 hours × 150 × .5)].

Recordkeeping: The Rule also requires ceiling fan manufacturers to keep records of test data generated in performing the tests to derive information included on labels. The FTC estimates that it will take manufacturers one minute per record (*i.e.,* per model) to store the data. Accordingly, the estimated annual recordkeeping burden would be approximately 8 hours, rounded up (1 minute × 450 basic models).

Catalog Disclosures: Based upon FTC staff research concerning the number of manufacturers and online retailers, staff estimates that there are an additional 300 catalog sellers who are subject to the Rule's catalog disclosure requirements. Staff estimates further that these sellers each require approximately 3 hours per year to incorporate the data into their catalogs. This estimate is based on the assumptions that entry of the required information takes on average one minute per covered product and that the average online catalog contains approximately 200 covered products relevant here. Given that there is great variety among sellers in the volume of products that they offer online, it is very difficult to estimate such numbers with precision. In addition, this analysis assumes that information for all 200 covered products is entered into the catalog each year. This is a conservative assumption because the number of incremental additions to the catalog from year to year is likely to be much lower after initial start-up efforts have been completed. Thus, the total annual disclosure burden for all catalog sellers of ceiling fans covered by the Rule is 900 hours (300 sellers × 3 hours).

Thus, estimated annual burden attributable to the proposed amendments is 11,457 hours (15 hours for reporting + 6,334 hours for affixing labels + 4,200 hours for testing + 8 hours for recordkeeping + 900 disclosure hours for catalog sellers).

Annual Labor Costs

Staff derived labor costs by applying assumed hourly wages[28] to the burden hours described above. In calculating labor costs, the FTC assumes that electrical engineers perform test procedures, electronic equipment installers affix labels, and data entry workers enter label data, catalog disclosures, and perform recordkeeping. Average hourly wages for these labor categories, based on BLS data, are as follows: (1) Electrical engineers ($46.80); (2) electronic equipment installers ($24.22); and (3) data entry workers ($15.79).

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[25] The proposed changes to plumbing should impose no additional burden beyond existing estimates because such changes either impose no or *de minimis* additional burdens, or manufacturers should be able to incorporate the proposed changes into their normally scheduled package or label revisions without incurring additional burdens beyond those already accounted for.

[26] The PRA analysis for this rulemaking focuses strictly on the information collection requirements created by and/or otherwise affected by the amendments. Unaffected information collection provisions have previously been accounted for in past FTC analyses under the Rule and are covered by the current PRA clearance from OMB.

[27] For portable ACs, the estimate assumes 3 units tested at 8 hours apiece consistent with DOE requirements, with an additional 4 hours for data analysis. *See* DOE's Compliance Certification Management System at *https://www.regulations.doe.gov/ccms.*

[28] The mean hourly wages that follow are drawn from "Occupational Employment and Wages—May 2015," Bureau of Labor Statistics ("BLS"), U.S. Department of Labor, Table 1, released March 30, 2016 ("National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2015"), available at *http://www.bls.gov/news.release/ocwage.t01.htm.*

Based on the above estimates and assumptions, the total annual labor cost for the five different categories of burden under the Rule, applied to the affected product categories, is derived as follows:

Reporting (Data Entry): 15 hours (450 basic models × 2 minutes) × $15.79/hour (data entry workers) = $237

Labeling (Affixing Labels): 6,334 hours × $24.22 (electronic equipment installers) = $153,409

Testing: 4,200 hours × $46.80/hour (electrical engineers) = $196,560

Recordkeeping: 8 hours × $15.79/hour (data entry workers) = $126

Catalog Disclosures: 1,200 hours × $15.79/hour (data entry workers) = $18,948

Thus, the total annual labor cost is approximately $369,280.

Estimated annual non-labor cost burden: Manufacturers are not likely to require any significant capital costs to comply with the proposed amendments. Industry members, however, will incur the cost of printing labels for each covered unit. The estimated label cost, based on $.03 per label, is $114,000 (3,800,000 × $.03).

Total Estimate: Accordingly, the estimated total hour burden of the proposed amendments is 11,457 with associated labor costs of $369,280 and annualized capital or other non-labor costs totaling $114,000.

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) Whether the proposed information collection is necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on November 14, 2016.

Comments on the proposed recordkeeping, disclosure, and reporting requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5806.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 through 612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with a proposed rule and a Final Regulatory Flexibility Analysis (FRFA), if any, with the final rule, unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 603 through 605.

The Commission does not anticipate that the proposed rule will have a significant economic impact on a substantial number of small entities. The Commission recognizes that some of the affected manufacturers may qualify as small businesses under the relevant thresholds. However, the Commission does not expect that the economic impact of the proposed amendments will be significant because these amendments involved routine labeling requirements commonly implemented by the affected entities and the burden of the requirements is not large as discussed in the Paperwork Reduction Act section of this Notice.

FTC staff estimates that the amendments will apply to 200 online and paper catalog sellers of covered products and about 71 product manufacturers. Staff expects that approximately 150 qualify as small businesses, all of which are online or paper catalog sellers.

Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. To ensure the accuracy of this certification, however, the Commission requests comment on whether the proposed rule will have a significant impact on a substantial number of small entities, including specific information on the number of entities that would be covered by the proposed rule, the number of these companies that are small entities, and the average annual burden for each entity. Although the Commission certifies under the RFA that the rule proposed in this notice would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA in order to inquire into the impact of the proposed rule on small entities. Therefore, the Commission has prepared the following analysis:

A. Description of the Reasons That Action by the Agency Is Being Taken

The Commission is proposing expanded product coverage and additional improvements to the Rule to help consumers in their purchasing decisions for high efficiency products.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the rule is to improve the effectiveness of the current labeling program. The legal basis for the Rule is the Energy Policy and Conservation Act (42 U.S.C. 6292 *et seq*).

C. Small Entities to Which the Proposed Rule Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, appliance manufacturers qualify as small businesses if they have fewer than 1,000 employees (for other household appliances the figure is 500 employees). Catalog sellers qualify as small businesses if their sales are less than $8.0 million annually. FTC staff estimates that there are approximately 150 catalog sellers subject to the proposed rule's requirements that qualify as small businesses.[29] The FTC seeks comment and information regarding the estimated number or nature of small business entities for which the proposed rule would have a significant economic impact.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The changes under consideration would slightly increase reporting or recordkeeping requirements associated with the Commission's labeling rules as discussed above. The amendments likely will increase compliance burdens by extending the labeling requirements to portable air conditioners, instantaneous electric water heaters, and certain ceiling fan types. The Commission assumes that the label design change will be implemented by data entry workers and underlying testing done by electrical engineers.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed rule. The Commission invites comment and information on this issue.

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[29] *See* 75 FR at 41712 (July 19, 2010).

F. Significant Alternatives to the Proposed Rule

The Commission seeks comment and information on the need, if any, for alternative compliance methods that, consistent with the statutory requirements, would reduce the economic impact of the rule on small entities. For example, the Commission is currently unaware of the need to adopt any special provisions for small entities. However, if such issues are identified, the Commission could consider alternative approaches such as extending the effective date of these amendments for catalog sellers to allow them additional time to comply beyond the labeling deadline set for manufacturers. Nonetheless, if the comments filed in response to this notice identify small entities that are affected by the proposed rule, as well as alternative methods of compliance that would reduce the economic impact of the rule on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final rule.

VI. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

VII. Proposed Rule

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

For the reasons discussed above, the Commission proposes to amend part 305 of title 16, Code of Federal Regulations, as follows:

PART 305—ENERGY AND WATER USE LABELING FOR CONSUMER PRODUCTS UNDER THE ENERGY POLICY AND CONSERVATION ACT ("ENERGY LABELING RULE")

■ 1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

■ 2. In § 305.2, redesignate paragraph (l)(23) as (l)(24), add new paragraph (l)(23), and revise paragraph (p) to read as follows:

§ 305.2 Definitions.

* * * * *

(l) * * *

(23) Portable air conditioners,

* * * * *

(p) Energy efficiency rating means the following product-specific energy usage descriptors: Annual fuel utilization efficiency (AFUE) for furnaces; energy efficiency ratio (EER) for room air conditioners and portable air conditioners; seasonal energy efficiency ratio (SEER) for the cooling function of central air conditioners and heat pumps; heating seasonal performance factor (HSPF) for the heating function of heat pumps; airflow efficiency for ceiling fans; and, thermal efficiency (TE) for pool heaters, as these descriptors are determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293). These product-specific energy usage descriptors shall be used in satisfying all the requirements of this part.

* * * * *

■ 3. In § 305.3, add paragraph (z) to read as follows:

§ 305.3 Description of covered products.

* * * * *

(z) *Portable air conditioner* means a portable encased assembly, other than a "packaged terminal air conditioner," "room air conditioner," or "dehumidifier," that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. It includes a source of refrigeration and may include additional means for air circulation and heating.

■ 4. Amend § 305.7 by revising paragraph (f) to read as follows:

§ 305.7 Determinations of capacity.

* * * * *

(f) *Room air conditioners and portable air conditioners.* The capacity shall be the cooling capacity in Btu's per hour, as determined according to appendix F to 10 CFR part 430, subpart B, but rounded to the nearest value ending in hundreds that will satisfy the relationship that the value of EER used in representations equals the rounded value of capacity divided by the value of input power in watts. If a value ending in hundreds will not satisfy this relationship, the capacity may be rounded to the nearest value ending in 50 that will.

* * * * *

■ 5. In § 305.8, revise paragraph (b)(1) to read as follows:

§ 305.8 Submission of data.

* * * * *

(b)(1) All data required by § 305.8(a) except serial numbers shall be submitted to the Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators	Aug. 1.
Refrigerators-freezers	Aug. 1.
Freezers	Aug. 1.
Central air conditioners	July 1.
Heat pumps	July 1.
Dishwashers	June 1.
Water heaters	May 1.
Room and portable air conditioners.	July 1.
Furnaces	May 1.
Pool heaters	May 1.
Clothes washers	Oct. 1.
Fluorescent lamp ballasts	Mar. 1.
Showerheads	Mar. 1.
Faucets	Mar. 1.
Water closets	Mar. 1.
Ceiling fans	Mar. 1.
Urinals	Mar. 1.
Metal halide lamp fixtures	Sept. 1.
General service fluorescent lamps.	Mar. 1.
Medium base compact fluorescent lamps.	Mar. 1.
General service incandescent lamps.	Mar. 1.
Televisions	June 1.

* * * * *

■ 6. Amend § 305.11 by revising the section heading and paragraphs (f)(5) and (8) to read as follows:

§ 305.11 Labeling for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, portable air conditioners, and pool heaters.

* * * * *

(f) * * *

(5) Unless otherwise indicated in this paragraph, estimated annual operating costs for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, room air conditioners, portable air conditioners, and water heaters are as determined in accordance with §§ 305.5 and 305.10. Thermal efficiencies for pool heaters are as determined in accordance with § 305.5. Labels for clothes washers and dishwashers must disclose estimated annual operating cost for both electricity and natural gas as illustrated in the sample labels in appendix L to this part. Labels for dual-mode refrigerator-freezers that can operate as either a refrigerator or a freezer must reflect the estimated energy cost of the model's most energy-intensive configuration.

* * * * *

(8) Labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, and water heaters must contain the model's estimated annual energy consumption as determined in accordance with § 305.5, and as indicated on the sample labels in appendix L to this part. Labels

for room air conditioners, portable air conditioners, and pool heaters must contain the model's energy efficiency rating or thermal efficiency, as applicable, as determined in accordance with § 305.5 and as indicated on the sample labels in appendix L to this part.

* * * * *

■ 7. Amend § 305.13 by revising paragraph (a) to read as follows:

§ 305.13 Labeling for ceiling fans.

(a) *Ceiling fans.*—(1) *Content.* Any covered product that is a ceiling fan shall be labeled clearly and conspicuously on the package's principal display panel with the following information on the label consistent with the sample label in Appendix L to this part:

(i) Headlines, including the title "EnergyGuide," and text as illustrated in the sample labels in Appendix L to this part;

(ii) The product's estimated yearly energy cost based on [12 hours per day for fans greater than 84 inches in diameter and for high velocity small-diameter fans, and 6.4 hours for all other covered models] hours use per day and 12 cents per kWh;

(iii) The product's airflow expressed in cubic feet per minute and determined pursuant to § 305.5 of this part;

(iv) The product's energy use expressed in watts and determined pursuant to § 305.5 of this part as indicated in the sample label in appendix L of this part;

(v) The statement "Based on 12 cents per kWh and [12 hours per day for fans greater than 84 inches in diameter and for high velocity small-diameter fans, and 6.4 hours for all other covered models] use per day";

(vi) The statement "Your cost depends on rates and use";

(vii) The statement "All estimates based on typical use, excluding lights";

(viii) The statement "The higher the airflow, the more air the fan will move;"

(ix) The statement "Airflow Efficiency: ___Cubic Feet Per Minute Per Watt";

(x) The address *ftc.gov/energy*;

(xi) For fans less than 19 inches in diameter, the label shall display a cost range of $10 to $50 along with the statement underneath the range "Cost Range of Similar Models (18″ or smaller)";

(xii) For fans from 19 or more inches and less than 84 inches in diameter, the label shall display a cost range of $3 to $34 along with the statement underneath the range "Cost Range of Similar Models (19″–83″).

(xiii) For fans more than 83 inches in diameter, the label shall display a cost range of $49 to $734 along with the statement underneath the range "Cost Range of Similar Models (greater than 83″)."

(xiv) For high velocity, small diameter fans, the label shall display a cost range of $8 to $85 along with the statement underneath the range "Cost Range of Similar Models."

(xv) Placement of the labeled product on the scale proportionate to the lowest and highest estimated annual energy costs as illustrated in the Sample Labels in appendix L. When the estimated annual energy cost of a given model falls outside the limits of the current range for that product, the manufacturer shall place the product at the end of the range closest to the model's energy cost.

(xvi) The ENERGY STAR logo as illustrated on the ceiling fan label illustration in Appendix L for qualified products, if desired by the manufacturer. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on qualifying covered products; such manufacturers may add the ENERGY STAR logo to labels only on those products that are covered by the Memorandum of Understanding;

(2) *Label size, color, and text font.* The label shall be four inches wide and three inches high. The label colors shall be black text on a process yellow or other neutral contrasting background. The text font shall be Arial or another equivalent font. The label's text size, format, content, and the order of the required disclosures shall be consistent with the ceiling fan label illustration of appendix L of this part.

(3) *Placement.* The ceiling fan label shall be printed on or affixed to the principal display panel of the product's packaging.

(4) *Additional information.* No marks or information other than that specified in this part shall appear on this label, except a model name, number, or similar identifying information.

(5) *Labeling for "multi-mount" fans.* For "multi-mount" fan models that can be installed either extended from the ceiling or flush with the ceiling, the label content must reflect the lowest efficiency (cubic feet per watt) configuration. Manufacturers may provide a second label depicting the efficiency at the other configuration.

* * * * *

■ 8. Amend § 305.16 by revising paragraphs (a)(3), (a)(4), (b)(3), and (b)(4) to read as follows:

§ 305.16 Labeling and marking for plumbing products.

(a) * * *

(3) The package for each showerhead and faucet shall disclose the manufacturer's name and the model number.

(4) The package or any label attached to the package for each showerhead or faucet shall contain at least the following: The flow rate expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325 of the Act, 42 U.S.C. 6295(j). Each flow rate disclosure shall also be given in liters per minute (L/min) or liters per cycle (L/cycle).

(b) * * *

(3) The package, and any labeling attached to the package, for each water closet and urinal shall disclose the flow rate, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325 of the Act, 42 U.S.C. 6295(k). Each flow rate disclosure shall also be given in liters per flush (Lpf).

(4) With respect to any gravity tank-type white 2-piece toilet offered for sale or sold before January 1, 1997, which has a water use greater than 1.6 gallons per flush (gpf), any printed matter distributed or displayed in connection with such product (including packaging and point-of-sale material, catalog material, and print advertising) shall include, in a conspicuous manner, the words "For Commercial Use Only."

* * * * *

§ 305.20 [Amended]

■ 9. In § 305.20, remove the term "room air conditioners" wherever it appears and add, in its place, the term "room and portable air conditioners."

■ 10. Add Appendix D6 to read as follows:

Appendix D5 to Part305—Water Heaters—Instantaneous–Electric

RANGE INFORMATION

Capacity	Range of estimated annual energy costs (dollars/year)	
Capacity (maximum flow rate); gallons per minute (gpm)	Low	High
"Very Small"—less than 1.6	*	*
"Low"—1.7 to 2.7	*	*

RANGE INFORMATION—Continued

Capacity	Range of estimated annual energy costs (dollars/year)	
Capacity (maximum flow rate); gallons per minute (gpm)	Low	High
"Medium"—2.8 to 3.9	*	*
"High"—over 4.0	*	*

■ 11. Revise Appendix E to read as follows:

Appendix E to Part 305—Room and Portable Air Conditioners

RANGE INFORMATION

Manufacturer's rated cooling capacity in Btu's/hr	Range of estimated annual energy costs (dollars/year)	
	Low	High
Less than 6,000 Btu	*	*
6,000 to 7,999 Btu	*	*
8,000 to 13,999 Btu	*	*
14,000 to 19,999 Btu	*	*
20,000 and more Btu	*	*

* No data submitted.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2016–21783 Filed 9–9–16; 8:45 am]

BILLING CODE 6750–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 232, 239 and 249

[Release Nos. 33–10201; 34–78737; File No. S7–19–16]

RIN 3235–AL95

Exhibit Hyperlinks and HTML Format

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: We are proposing amendments that would require registrants that file registration statements and periodic and current reports that are subject to the exhibit requirements under Item 601 of Regulation S–K, or that file on Forms F–10 or 20–F, to include a hyperlink to each exhibit listed in the exhibit index of these filings. To enable the inclusion of such hyperlinks, the proposed amendments would also require that registrants submit all such filings in HyperText Markup Language ("HTML") format.

DATES: Comments should be received on or before October 27, 2016.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number S7–19–16 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–19–16. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/proposed.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the SEC's Web site. To ensure direct electronic receipt of such notifications, sign up through the "Stay Connected" option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: N. Sean Harrison, Special Counsel, at (202) 551–3430, in the Office of Rulemaking, Division of Corporation Finance, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are proposing amendments to Item 601 of Regulation S–K,[1] Forms 20–F [2] and F–10,[3] and Rules 11,[4] 102 [5] and 105 [6] of Regulation S–T.[7]

I. Introduction

Since the Commission's implementation of the Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR") in 1984 to automate the receipt, processing, and dissemination of documents required to be filed under the federal securities laws,[8] we have sought to make EDGAR more efficient and comprehensive. For example, in 2000, we adopted rule and form amendments in connection with the modernization of EDGAR that allowed registrants to file EDGAR documents in the HTML format.[9] In addition, we expanded the permissible use of hyperlinks in EDGAR filings to allow filers to hyperlink to other documents within the same filing and to hyperlink to documents contained in other filings in the EDGAR database. Recently, we issued a concept release examining the business and financial information Regulation S–K requires registrants to disclose, how this information is presented, where and how this information is disclosed and how we can leverage technology as part of these efforts.[10] The S–K Concept Release was a product of the staff's work on the Disclosure Effectiveness Initiative, which is part of a comprehensive evaluation of the Commission's disclosure requirements recommended in the staff's Report on Review of Disclosure Requirements in Regulation S–K ("S–K Study").[11] In furtherance of the objectives of the Disclosure Effectiveness Initiative, we are proposing rule amendments to Item

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[1] 17 CFR 229.601.

[2] 17 CFR 249.20f.

[3] 17 CFR 239.40.

[4] 17 CFR 232.11.

[5] 17 CFR 232.102.

[6] 17 CFR 232.105.

[7] 17 CFR 232.10 *et seq.*

[8] *See Electronic Filing, Processing and Information Dissemination System,* Release No. 33–6519 (Mar. 30, 1984) [49 FR 12707].

[9] *See Rulemaking for EDGAR System,* Release No. 33–7855 (Apr. 24, 2000) [65 FR 24788]. Filers also may submit unofficial copies of filings in Portable Document Format ("PDF"). *See* Rule 104 of Regulation S–T [17 CFR 232.104].

[10] *See Business and Financial Disclosure Required by Regulation S–K,* Release No. 33–10064 (Apr. 13, 2016) [81 FR 23916] ("S–K Concept Release"). The Division of Corporation Finance is reviewing the disclosure requirements in Regulation S–K [17 CFR 229 *et seq.*] and Regulation S–X [17 CFR 210 *et seq.*], and is considering ways to improve the disclosure regime for the benefit of both public companies and investors.

[11] The S–K Study was mandated by Section 108 of the Jumpstart Our Business Startups Act. *See* Public Law 112–106, Sec. 108, 126 Stat. 306 (2012).

601 of Regulation S–K and Rules 102[12] and 105 of Regulation S–T to require registrants to include a hyperlink to each exhibit identified in the exhibit index in any registration statement or report that is required to include exhibits under Item 601.[13] In addition, because the text-based American Standard Code for Information Interchange (''ASCII'') format cannot support functional hyperlinks, we are proposing to require registrants filing such registration statements or reports to file these forms on EDGAR in HTML. We discuss these proposed amendments in more detail below.

II. Discussion of the Proposed Amendments

Item 601 of Regulation S–K specifies the exhibits that registrants must file with registration statements filed under the Securities Act of 1933 (''Securities Act'')[14] and Securities Exchange Act of 1934 (''Exchange Act'')[15] and with periodic and current reports under the Exchange Act, which we will refer to collectively in this release as the ''registration statements and reports.'' Item 601 also requires registrants to include an exhibit index that lists each exhibit included with the filing.[16] Once an exhibit is filed, registrants can incorporate it by reference to meet the exhibit requirements in subsequent filings to the extent permitted by our rules or the applicable disclosure form.[17]

Currently, filers must submit electronic filings to the Commission using the EDGAR system in either the ASCII format or the HTML format. HTML has features that allow electronic documents prepared in this format to include hyperlinks that link to another place within the same document or to a separate document. A document filed in ASCII format can include a cross-reference, but it cannot support a functional hyperlink. Since the time we updated the EDGAR system to accept HTML formatted documents, HTML has become the predominant format used by registrants. During 2015, over 99% of the filings that were made on the forms that would be affected by the proposed amendments were filed in HTML.[18]

Under the current system, someone seeking to retrieve and access an exhibit that has been incorporated by reference must review the exhibit index to determine the filing in which the exhibit is included, and then must search through the registrant's filings to locate the relevant filing to review for the particular exhibit. This process can be both time consuming and cumbersome. We believe that requiring registrants to include hyperlinks from the exhibit index to the actual exhibits filed would facilitate easier access to these exhibits for investors and other users of the information.

Rule 105 of Regulation S–T sets forth the limitations on, and liability for, the use of HTML documents and hyperlinks in EDGAR filings. Rule 105, among other things, currently permits hyperlinking to other documents within the same filing, such as exhibits, and to documents contained in other forms or schedules that have been previously filed on EDGAR. Rule 105 prohibits hyperlinking to sites, locations or documents outside of the EDGAR system.

We are proposing to amend Item 601 of Regulation S–K and Rules 11, 102[19] and 105 of Regulation S–T to require registrants to include a hyperlink to each filed exhibit as identified in the exhibit index, unless the exhibit is filed in paper pursuant to a temporary or continuing hardship exemption under Rules 201 or 202 of Regulation S–T or pursuant to Rule 311 of Regulation S–T.[20] The proposed amendments would apply to nearly all of the forms that are required to include exhibits under Item 601,[21] specifically Forms S–1,[22] S–3,[23] S–4,[24] S–8,[25] S–11,[26] F–1,[27] F–3,[28] F–4,[29] SF–1,[30] and SF–3[31] under the Securities Act; and Forms 10,[32] 10–K,[33] 10–Q, 8–K,[34] and 10–D[35] under the Exchange Act. In addition, we are proposing corresponding amendments to Form F–10 and Form 20–F.

The proposed amendments exclude the exhibits filed with Form ABS–EE because the form is used solely to facilitate the filing of tagged data and related information that must be filed as exhibits to the form. Form ABS–EE does not permit exhibits to be incorporated by reference and the exhibits are in unconverted code. Therefore, we believe it is not necessary to require that Form ABS–EE include hyperlinks to the exhibits that must be filed with the form. The proposed amendments also exclude any XBRL exhibits that are filed with the affected forms because the XBRL exhibits similarly are in unconverted code and not incorporated by reference into other filings.[36]

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[12] Rule 102 of Regulation S–T sets forth requirements for exhibits included in electronic filings.

[13] The proposed amendments exclude exhibits filed with Form ABS–EE [17 CFR 249.1401] and any eXtensive Business Reporting language (''XBRL'') exhibits. See futher discussion below.

[14] 15 U.S.C. 77a *et seq.*

[15] 15 U.S.C. 78a *et seq.*

[16] *See* Item 601(a)(2) of Regulation S–K [17 CFR 229.601(a)(2)], Rule 102 of Regulation S–T [17 CFR 232.102] and Exchange Act Rule 0–3(c) [17 CFR 240.0–3(c)].

[17] *See, e.g.,* Item 10(d) of Regulation S–K [17 CFR 229.10(d)]. Item 10(d) provides, with certain exceptions, that where rules, regulations, or instructions to forms of the Commission permit incorporation by reference, a document may be so incorporated by reference to the specific document and to the prior filing or submission in which such document was physically filed or submitted.

[18] During the 2015 calendar year, over 114,000 of these forms were filed on EDGAR. Approximately 845 of those filings were submitted in the ASCII format.

[19] Rule 102 of Regulation S–T requires each exhibit to an electronic filing to be filed electronically unless there is an applicable exemption.

[20] 17 CFR 232.201, 232.202 and 232.311.

[21] The proposed amendments exclude Form ABS–EE, *see* footnote 13 above. Although the disclosure forms used by registered investment companies would not be covered by the proposed amendments, some investment companies file annual reports on Form 10–K. Those investment companies would be subject to the proposed amendments. The staff will consider whether the proposals discussed in this release should be extended to a broader group of registrants or additional form types. Any future rulemaking proposals that may stem from the staff's consideration would be subject to notice and public comment.

[22] 17 CFR 239.11.

[23] 17 CFR 239.13.

[24] 17 CFR 239.25.

[25] 17 CFR 239.16b.

[26] 17 CFR 239.18.

[27] 17 CFR 239.31.

[28] 17 CFR 239.33.

[29] 17 CFR 239.34.

[30] 17 CFR 239.44.

[31] 17 CFR 239.45.

[32] 17 CFR 249.210.

[33] 17 CFR 249.310.

[34] 17 CFR 249.308.

[35] 17 CFR 249.312.

[36] The Commission has recently announced a time-limited program to permit registrants to voluntarily file structured financial statement data using Inline XBRL. Inline XBRL will allow registrants to file the required information and data tags in one document rather than requiring a separate exhibit for the interactive data, and may help inform future Commission rulemaking in this area. *Order Granting Limited and Conditional Exemption Under Section 36(a) of the Securities Exchange Act of 1934 from Compliance with Interactive Data File Exhibit Requirement in Forms 6–K, 8–K, 10–Q, 10–K, 20–F and 40–F to Facilitate Inline Filing of Tagged Financial Data,* Release No. 34–78041 (June 13, 2016) [81 FR 39741]. The amendments we are proposing in this release and the Inline XBRL program are part of the Commission's continuing efforts and interest in modernizing the format of the information filed on EDGAR to make it more accessible to investors and other users.

Under the proposed amendments, a registrant would be required to include an active hyperlink to each exhibit identified in the exhibit index of the filing. If the filing is a periodic or current report under the Exchange Act, a registrant would be required to include an active hyperlink to each exhibit listed in the exhibit index when the report is filed. If the filing is a registration statement, the registrant would only be required to include an active hyperlink to each exhibit in the version of the registration statement that becomes effective.[37] We preliminary believe that this would ensure that the most complete exhibit index is hyperlinked and located in one primary document.

Because the ASCII format does not support hyperlink functionality, the exhibit hyperlinking requirement would be feasible only if registrants are required to file in HTML. We are therefore proposing that all registrants be required to file the forms affected by the proposals in HTML format.[38]

We also propose to revise Item 601(a)(2) to remove obsolete language from the item relating to paper filings.

Request for Comment

1. Should we require registrants to include hyperlinks from the exhibit index to the exhibits identified in the index for the registration statements and reports, as proposed?

2. Should we exclude the Form ABS–EE exhibits and the XBRL exhibits that are filed with other forms as proposed? What would be the costs and benefits to requiring registrants to hyperlink to such exhibits?

3. Registrants often file multiple pre-effective amendments before a registration statement becomes effective. Each pre-effective amendment may include one or more exhibits that the registrant has not filed previously. For example, when a registrant first files a Form S–1, the registrant will list the exhibits and indicate by asterisk and footnote those that will be filed in future amendments. By the time the registration statement becomes effective, the registrant typically has filed most or all of the exhibits in previous amendments. Should we require registrants to include hyperlinks to the exhibits filed with the initial registration statement and each pre-effective amendment? Should we require registrants to include hyperlinks from the exhibit index to the exhibits included in each pre-effective amendment to all of the exhibits filed with each such amendment, as well as previously filed exhibits to the registration statement? Should we require that active hyperlinks be included in other pre-effective registration statements, such as those that include a preliminary prospectus distributed in connection with an offer, often known as a red herring prospectus?

4. Should we revise Form 6–K filed by foreign private issuers and/or other MJDS forms, such as Forms F–7, F–8, and F–80, to require exhibit hyperlinks even though all exhibits filed with these forms will be attached to them?

5. Are there any particular difficulties in requiring registrants to provide hyperlinks to the exhibits identified in Item 601 of Regulation S–K that are filed with a registration statement or report as proposed?

6. Our rules currently do not require a registrant that filed an exhibit in paper prior to the time that it became subject to mandated electronic filing on EDGAR to refile the exhibit in electronic format, although the registrant has the option to do so.[39] Our rules permit a registrant to incorporate by reference an exhibit previously filed in paper into electronic filings. Accordingly, there may be some instances in which a registrant incorporates by reference an exhibit previously filed in paper, such as its articles of incorporation, into a Form 10–K or other form, but cannot include a hyperlink to that paper-based exhibit. Accordingly, a proposed instruction to amended Rule 105 of Regulation S–T would provide that no hyperlink is required for any exhibit incorporated by reference that has not been filed in electronic format. Should we require registrants to refile electronically any exhibit previously filed in paper so that they can include a hyperlink from the exhibit index to the exhibit? If so, how long should registrants be given to refile such exhibits? Are there alternatives that we should consider to address this situation?

7. Would smaller reporting companies and non-accelerated filers that currently file in ASCII face any specific difficulties or incur any unreasonable costs in converting their filings to HTML format? If so, should we keep the ASCII format as an EDGAR filing option for these filers?[40]

8. Are there more effective ways to improve access to documents filed as exhibits by registrants that we should consider? As an alternative to the proposed amendments, should we require registrants to file and update a compilation of exhibits separately from the Form 10–K or other forms? If so, which exhibits should be included in the compilation and how frequently should registrants have to update them? Should we revise the exhibit numbering scheme to help investors more readily identify exhibits? Would a more detailed numbering or identification system improve investors' access to the information filed as exhibits?

III. Economic Analysis

As discussed above, we are proposing amendments that would require registrants that file registration statements and reports that are subject to the exhibit requirements under Item 601 of Regulation S–K, or that file on Forms F–10 or 20–F, to include a hyperlink to each exhibit identified in the exhibit index of these filings and to submit all such filings in HTML format.[41] We are sensitive to the costs and benefits of the proposed amendments. In this economic analysis, we examine the existing baseline, which consists of the current regulatory framework and market practices, and discuss the potential benefits and costs of the proposed amendments, relative to this baseline, and their potential effects on efficiency, competition, and capital formation.[42] We also consider the potential costs and benefits of reasonable alternatives to the proposed amendments.

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[37] Similarly, for a registration statement, or post-effective amendment to a registration statement, that becomes effective upon filing with the Commission, an active hyperlink to each exhibit listed in the exhibit index of such registration statement or post-effective amendment would be required at the time of filing. *See* proposed amendments to Rule 105 of Regulation S–T.

[38] We are also considering ways to further enhance the presentation and usability of the exhibit index. HTML tags identifying the exhibit index would make it possible to include a hyperlink to the exhibit index on a registrant's search results EDGAR landing page. This could allow investors and other users to more easily access the exhibits.

[39] *See* Rule 102(a) of Regulation S–T. Rule 102(a) states an electronic filer may, at its option, restate in electronic format an exhibit it incorporated by reference that was originally filed in paper format.

[40] We estimate that in calendar year 2015, 175 registrants filed a registration statement or report in ASCII. Approximately 74% of these ASCII filings were filed by smaller reporting companies or non-accelerated filers.

[41] As indicated in note 13 above, the proposed amendments exclude Form ABS–EE.

[42] Exchange Act Section 23(a)(2) [15 U.S.C. 78w(a)] requires us, when adopting rules, to consider the impact that any new rule would have on competition. In addition, Section 2(b) of the Securities Act [15 U.S.C. 77b(b)] and Section 3(f) of the Exchange Act [15 U.S.C. 78c(f)] direct us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

Where practicable, we attempt to quantify the economic effects of the proposed amendments; however, in certain cases, we are unable to do so because we lack the necessary data. We do, however, provide a qualitative assessment of the likely economic effects. We request comment on all aspects of the economic effects, including the costs and benefits of the proposals and possible alternatives to the proposed amendments. We particularly welcome comments that include data or qualitative information that would enable us to quantify the costs and benefits associated with the proposals and alternative implementations of the proposed amendments.

A. Baseline

The proposed amendments would affect all registrants that file registration statements and reports that are required to include exhibits under Item 601 of Regulation S–K, specifically Forms S–1, S–3, S–4, S–8, S–11, SF–1, SF–3, F–1, F–3, and F–4 under the Securities Act and Forms 10, 10–K, 10–Q, 8–K, and 10–D under the Exchange Act. In addition, the proposed amendments would affect Forms F–10 and 20–F. Although registrants that currently file registration statements and reports in HTML format would not be affected by the requirement to file in HTML format, they would be required to include hyperlinks from the exhibits identified in the exhibit index to the actual exhibits that are filed with the document or that were previously filed with another document. Because the ASCII format does not support hyperlink capabilities, registrants that currently file these forms and reports in ASCII format would be required to file in HTML in addition to complying with the proposed exhibit hyperlink requirement.

We estimate that, in calendar year 2015, 9,589 registrants filed either a registration statement or a report in HTML, while 175 registrants made filings in ASCII. Table 1 below shows the number of registration statements and reports that registrants filed with the Commission in calendar year 2015. Table 1 also presents the number of filings submitted in HTML format and ASCII format, respectively, excluding amendments. Because hyperlinking is not available in ASCII format, we present the baseline analysis of filings separately for HTML and ASCII formats.

TABLE 1—NUMBER OF REGISTRATION STATEMENTS AND REPORTS FILED IN 2015

Securities Act registration statements and Exchange Act forms	Number of filings (excluding amendments)	
	HTML	ASCII
Form S–1	849	9
Form S–3	700	9
Form S–4	349	0
Form S–8	2,135	6
Form S–11	37	0
Form SF–1	0	0
Form SF–3	48	0
Form F–1	79	0
Form F–3	69	0
Form F–4	24	0
Form F–10	41	0
Form 10[43]	118	19
Form 20–F	685	0
Form 10–K	7,596	63
Form 10–Q	21,474	162
Form 8–K[44]	74,041	366
Form 10–D	5,393	211

As shown in Table 1, among the types of forms affected by the proposed amendments, Forms S–1, S–8, 10–K, 10–Q, 10–D, and 8–K were the most frequently filed in HTML format in 2015. As a proxy for registrants' size, we used the filer status that registrants reported in their Form 10–K in calendar year 2015. We found that 32% of the registration statements and reports (excluding amendments) filed in HTML format were filed by large accelerated filers, 20% by accelerated filers and 44% by smaller reporting companies or non-accelerated filers.[45] In calendar year 2015, on average, large accelerated filers filed more registration statements and reports in HTML format (16.5) than accelerated filers (14.9) or smaller reporting companies and non-accelerated filers (9.7).

In calendar year 2015, a limited set of form types were filed in ASCII format. In particular, Forms 8–K, 10–D, 10–Q and 10–K were the form types that were most frequently filed in ASCII format. We found that only 4% of the registration statements and reports (excluding amendments) filed in ASCII were filed by large accelerated filers; 3% by accelerated filers; and 74% by smaller reporting companies or non-accelerated filers.[46] As in the case of filings in HTML format, in calendar year 2015, on average, large accelerated filers more registration statements and reports in ASCII format (7.4) than accelerated filers (6.8) or smaller reporting companies and non-accelerated filers (5.6).

i. HTML Filers

To draw a baseline indicative of the current disclosure practices by HTML filers, we selected a random sample of 570 filings from 2015 registration statements and reports (excluding amended filings). This sample included 150 randomly selected Form 10–K filings and 420 randomly selected other filings in HTML format.

The proposed amendments would require registrants to include hyperlinks for all exhibits listed in the exhibit index, whether included with the filing or incorporated by reference from a previously filed document. Table 2 below shows the average and median number of exhibits[47] listed in the random sample of 570 filings by the type of forms affected by the proposed amendments.

TABLE 2—NUMBER OF EXHIBITS

	Number of exhibits listed in the index		Number of exhibits filed with the form		Number of exhibits incorporated by reference		Number of sampled filings
	Average[48]	Median[49]	Average	Median	Average	Median	
Form S–1	29.8	21.0	8.3	4.5	21.5	5.5	36

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[43] The number of Form 10s includes Forms 10–12B and 10–12G.

[44] The number of Form 8–Ks also includes Form 8–K12Bs.

[45] The remaining 4% of 2015 filings in HTML format were filed by registrants whose filer status was not indicated.

[46] The remaining 19% of 2015 filings in ASCII format were filed by registrants whose filer status was not indicated.

[47] In counting the number of exhibits, we did not include exhibits filed by pre-effective amendment because they would not be affected by the proposed amendments as only the version of a registration statement that becomes effective would require hyperlinks. Moreover, we did not include the following exhibits: 101.INS XBRL Instance Taxonomy; 101.SCH XBRL Taxonomy Extension Schema Document; 101.CAL XBRL Taxonomy Extension Calculation Linkbase Document; 101.DEF XBRL Taxonomy Extension Definition Linkbase Document; 101.LAB XBRL Taxonomy Extension Labels Linkbase Document; and 101.PRE XBRL Taxonomy Extension Presentation Linkbase Document because XBRL exhibits are not covered by the proposal.

TABLE 2—NUMBER OF EXHIBITS—Continued

	Number of exhibits listed in the index		Number of exhibits filed with the form		Number of exhibits incorporated by reference		Number of sampled filings
	Average[48]	Median[49]	Average	Median	Average	Median	
Form S–3	10.1	8.0	4.7	4.0	5.4	4.0	42
Form S–4	30.7	15.0	9.1	6.5	21.6	7.5	32
Form S–8	5.4	4.0	2.1	2.0	3.3	2.5	48
Form S–11	15.3	11.0	7.6	2.5	7.7	0.0	12
Form SF–1	....	....	....	....	....	....	0
Form SF–3	9.3	7.0	4.6	2.5	4.7	2.0	20
Form F–1	16.9	16.0	15.7	12.0	1.2	0.0	15
Form F–3	7.0	6.0	4.1	4.0	2.9	2.5	22
Form F–4	20.1	12.0	14.4	10.0	5.7	0.5	14
Form F–10	12.2	11.0	4.75	3.0	7.45	7.0	20
Form 10	5.2	2.0	4.6	2.0	0.6	0.0	23
Form 20–F	28.2	24.0	5.3	7.0	22.9	17.0	25
Form 10–K	38.9	33.5	7.4	7.0	31.5	25.0	150
Form 10–Q	6.4	4.0	4.1	4.0	2.3	0.0	34
Form 8–K	1.7	1.0	1.1	1.0	0.6	0.0	49
Form 10–D	0.0	0.0	0.0	0.0	0.0	0.0	28
All Forms	19.5	10.0	5.7	4.0	13.8	3.0	570
Forms S–1, S–4, S–11, F–1, F–4, F–10, 20–F and 10–K	32.8	25.0	8.3	7.0	24.5	16.0	304
Other Forms & Reports	5.4	4.0	2.9	2.0	2.5	0.0	266

Table 2 shows a significant variation in the number of exhibits listed in the exhibit index across different types of forms. Among the Securities Act registration statements, Forms S–1, S–4, S–11, F–1, F–4 and F–10 typically contain a large number of exhibits, while among the Exchange Act reports, Forms 20–F and 10–K contain significantly more exhibits than other form types. Overall, Forms S–1, S–4, S–11, F–1, F–4, F–10, 20–F and 10–K had a median number of 25 exhibits, compared to a median of four exhibits in the other nine types of registration statements and reports. Forms S–1, S–4, S–11, F–1, F–4, F–10, 20–F and 10–K also had significantly more exhibits incorporated by reference than the other nine types of registration statements and reports affected by the proposed amendments.

In general, the number of exhibits increases with a registrant's size. Of the 570 sampled filings, the filings by large accelerated filers had a median of 16 exhibits, of which six were incorporated by reference; filings by accelerated filers had a median 14 exhibits, of which five were incorporated by reference; and filings by smaller reporting companies and non-accelerated filers had a median of 12 exhibits, of which only two were incorporated by reference.

Of the 570 sampled filings, we found that the exhibit indexes of only 6% of the filings included hyperlinks. We found only two filings that included hyperlinks for all exhibits. In the 30 instances when registrants did not include hyperlinks for all exhibits, they were more likely to include hyperlinks to exhibits filed with the document. Of the sampled filings on Form S–1, S–4, S–11, F–1, F–4, F–10, 20–F and 10–K, approximately 7% had exhibit indexes that contained hyperlinks for one or more exhibits in the index (''partially hyperlinked''). In particular, while we found no fully hyperlinked Form 10–K, 8% of the 150 sampled Form 10–Ks were partially hyperlinked.

To check whether current hyperlinking practices differ among registrants, we looked at registrants' filer status and found that smaller reporting companies and non-accelerated filers were more inclined to include hyperlinks to their exhibits than large accelerated filers or accelerated filers. We also reviewed the most recent Form 10–Ks filed in calendar year 2015 by each of the companies on the Fortune 100 list, which includes the largest 100 U.S. companies.[50] We found no companies in the Fortune 100 list that provided hyperlinks to any of the exhibits listed in their most recent Form 10–K exhibit indexes.

TABLE 3—TYPE OF FORMS FROM WHICH EXHIBITS WERE INCORPORATED BY REFERENCE

Exhibit incorporated by reference From:	Form S–1 (%)	Form F–1 (%)	Form 10–K (%)	Form 20–F (%)	Form 8–K (%)	Form 10–Q (%)	Other forms with exhibit index requirement (%)	Other forms without exhibit index requirement[51] (%)
Into:								
Form S–1	11	0	14	0	54	9	11	1
Form S–3	16	0	4	0	58	11	8	3
Form S–4	17	0	14	0	38	8	17	6

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[48] Average represents the sum of number of exhibits divided by the number of sampled forms for each form type.

[49] Median represents the middle number of exhibits for each form type when the numbers of exhibits are listed from the smallest to the largest. For instance, for Forms S–1, the number of exhibits listed in the index ranged from 0 to 125, with 21 as the middle number.

[50] Eight entities included in the Fortune 100 list are privately-held companies; therefore, no Form 10–Ks were available for them.

TABLE 3—TYPE OF FORMS FROM WHICH EXHIBITS WERE INCORPORATED BY REFERENCE—Continued

Exhibit incorporated by reference From:	Form S–1 (%)	Form F–1 (%)	Form 10–K (%)	Form 20–F (%)	Form 8–K (%)	Form 10–Q (%)	Other forms with exhibit index requirement (%)	Other forms without exhibit index requirement[51] (%)
Form S–8	20	1	9	0	38	14	6	12
Form S–11	0	0	0	0	59	1	34	6
Form SF–1	....	....	....	....	....	....	....	....
Form SF–3	5	0	0	0	30	0	60	5
Form F–1	0	44	0	33	0	0	0	23
Form F–3	0	43	0	22	0	0	15	20
Form F–4	0	54	0	24	3	0	4	15
Form F–10	0	0	0	0	0	0	3	97
Form 10	0	0	57	0	7	0	0	36
Form 20–F	0	31	0	50	1	1	3	14
Form 10–K	12	0	15	0	41	15	6	11
Form 10–Q	1	0	27	0	47	4	5	16
Form 8–K	55	0	0	0	36	0	0	9
Form 10–D	0	0	0	0	0	0	0	0

As discussed below, under the proposed amendments, the hyperlink requirement would make exhibits incorporated by reference in the affected registration statements and reports more easily accessible. For the exhibits incorporated by reference that were listed in the 570 sampled filings, Table 3 shows the form types from which the exhibits were incorporated. The majority of exhibits were incorporated from the same registration statements and reports affected by the proposed amendments. For example, exhibits in Forms S–1 were largely incorporated from previously filed Forms 8–K, 10–K, S–1, 10–Q, and 10. Only a small percentage of exhibits were incorporated from form types without an exhibit index requirement, such as proxy statements.

ii. ASCII Filers

We reviewed 183 registration statements and reports filed in ASCII format in calendar year 2015. In particular, we reviewed all of the 63 Form 10–Ks and a randomly selected sample of 120 other forms filed in ASCII format. The exhibit indexes in the ASCII filings listed significantly lower averages and median numbers of exhibits than in HTML filings. For example, the sampled Form 10–Qs reported a median of three exhibits, of which two were filed with the form. The 63 Form 10–Ks filed in ASCII format in 2015 included a median of seven exhibits, mostly incorporated by reference. Given that the ASCII format does not support hyperlinks, no exhibit index included hyperlinks.

B. Potential Economic Effects

Relative to conventional, unlinked cross-references, hyperlinks would not only supply users with the location of a specific exhibit, but also allow users to reach that location more easily and quickly. Requiring exhibit hyperlinks would help investors and other users to access a particular exhibit more efficiently as they would not need to search within the filing or through different filings made over time to locate the exhibit. We expect that hyperlinks would be more beneficial in reducing search costs in the case of exhibits incorporated by reference than in the case of exhibits filed with the filing, and in particular, we expect these benefits to be most pronounced in the case of incorporation by reference from a filing that was not recently filed because more recent filings are displayed first. Further, we expect hyperlinks would have greater benefits in the case of registrants that submit more filings. Overall, we believe the proposed amendments would reduce search costs for investors. For example, depending on the nature of the business or size of the registrant, a registrant may file multiple registration statements or reports in a given quarter or fiscal year. Requiring exhibit hyperlinks would make it easier for investors and other users to find and access a particular exhibit that was originally filed with a previous filing.

To the extent that hyperlinks ease the navigation process for investors and other users, hyperlinks may also facilitate a more thorough review of a registrant's registration statements and reports and encourage more effective monitoring over time. The potential reduction of search costs and the enhanced ability of investors to review a registrant's disclosure may result in more informed investment and voting decisions, potentially enhancing allocative efficiency and capital formation by registrants.

As a result of the proposed amendments, we expect that both HTML and ASCII registrants would incur compliance costs to include hyperlinks in their exhibit indexes. The cost of inserting a hyperlink to an exhibit incorporated by reference would likely be greater than the cost of inserting a hyperlink to an exhibit filed with the document. While the average cost itself of inserting an hyperlink is minimal,[52] the total hyperlinking costs for registrants would be a function of two main factors: (1) How many registration statements and reports a registrant files that require an exhibit index; and (2) how many exhibits in the exhibit index of these registration statements and reports are either filed with the filing or incorporated by reference. Overall, we expect that these costs would increase with the size of the registrant as larger filers tend to file more registration statements and reports and have more exhibits.

In particular, for filers reporting in HTML, our baseline analysis indicates that few filers currently include fully hyperlinked exhibit indexes in registration statements and reports. Our analysis of a random sample of registration statements and reports filed in 2015 indicates that approximately 6% of HTML filers included at least a partially hyperlinked exhibit index in their filings. For these HTML filers, the cost of fully hyperlinking their exhibit indexes could be less than for those HTML filers that did not hyperlink their exhibit indexes.

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[51] Pursuant to Securities Act Rule 411 [17 CFR 230.411] and Exchange Act Rule 12b–23 [17 CFR 240.12b–23], registrants can, under certain conditions, incorporate information by reference in answer, or partial answer, to an item of a registration statement or report. Generally, the incorporated information must be filed as an exhibit to the registration statement or report. In our analysis of the 570 sampled filings, we found several exhibits that were filed for this purpose.

[52] See *Section IV. Paperwork Reduction Act, C. Burden and Cost Estimates Related to the Proposed Amendments,* for costs estimates related to the proposed rule.

Filers reporting in ASCII would incur costs to switch to HTML, in addition to the costs of including hyperlinks in their exhibit indexes. While the registrants that filed in ASCII that would be affected by the proposal to require HTML are primarily small entities, we expect that the costs of switching to HTML would not be significant because the cost of software with built-in HTML and hyperlink features is minimal. Overall, given the modest costs involved, we do not expect that the proposed amendments would have significant competitive effects for registrants.

C. Alternatives

We considered four alternatives to the proposed amendments. First, instead of requiring hyperlinks in the exhibit index within registration statements and reports requiring an exhibit index under Item 601 of Regulation S–K and Forms F–10 and 20–F, we considered requiring registrants to include hyperlinks in a subset of these registration statements and reports. For example, we could have limited the hyperlinks requirement to exhibit indexes in those registration statements and reports that typically include lengthy exhibit indexes. Our analysis of a random sample of registration statements and reports filed in calendar year 2015 indicates that exhibit indexes are more frequently filed in Forms S–1, S–8, 10–K, 10–Q, 8–K, and 10–D, but are lengthier in Forms S–1, S–4, S–11, F–1, F–4, F–10, 20–F, and 10–K based on the average and median number of exhibits included in the exhibit index. For example, Forms 8–K and 10–Q are frequently filed but typically list a limited number of exhibits, most of which are included in the filing itself. Relative to the proposed amendments, the alternative of limiting the scope of the exhibit hyperlink requirement to fewer form types would lead to cost savings for registrants but also a smaller reduction in search costs for investors and other users.

Second, instead of requiring registrants to hyperlink each exhibit included in the exhibit index, we considered requiring registrants to hyperlink only exhibits incorporated by reference. Our analysis of the random sample of 2015 filings indicates that, among the registration statements and reports, Forms 20–F and 10–K typically include a higher number of exhibits incorporated by reference. This alternative would lead to nominal cost savings for registrants but also a smaller reduction in search costs for investors, although search costs related to exhibits filed with the document may be relatively limited.

Third, we considered requiring registrants to file and update a compilation of exhibits separately from the Form 10–K and other forms. A separate compilation of exhibits could have more prominence and make it easier for investors and other users to access relevant information on EDGAR, as there would be only one compilation for all exhibits regardless of what forms a registrant may file. Requiring a separate compilation, however, would impose an additional burden on registrants to prepare, file and update this disclosure and could make our disclosure regime more complex to the extent that relevant information is spread over multiple filings.

Fourth, we considered excluding ASCII filers from the proposed requirement to hyperlink to each exhibit identified in the exhibit index and permitting them to continuing filing in ASCII. Relative to the proposed amendments, this alternative could be beneficial to ASCII filers as they would not incur the additional, although minimal, compliance costs of switching to HTML and hyperlinking their exhibit indexes. However, under this alternative, investors and other users of the information disclosed in ASCII filings would not benefit from reduced search costs.

Request for Comment

We request comment on the potential costs and benefits of the proposed rules and whether the rules, if adopted, would promote efficiency, competition, and capital formation or have an impact or burden on competition. Commenters are requested to provide empirical data, estimation methodologies, and other factual support for their views, in particular, on costs and benefits estimates.

IV. Paperwork Reduction Act

A. Background

Certain provisions of our rules and forms that would be affected by the proposed amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[53] The Commission is submitting the proposal to the Office of Management and Budget ("OMB") for review in accordance with the PRA.[54] The titles for the collections of information are:

"Form S–1" (OMB Control No. 3235–0065);
"Form S–3" (OMB Control No. 3235–0073);
"Form S–4" (OMB Control No. 3235–0324);
"Form S–8" (OMB Control No. 3235–0066);
"Form S–11" (OMB Control No. 3235–0067);
"Form F–1" (OMB Control No. 3235–0258);
"Form F–3" (OMB Control No. 3235–0256);
"Form F–4" (OMB Control No. 3235–0325);
"Form F–10" (OMB Control No. 3235–0380);
"Form SF–1" (OMB Control No. 3235–0707);
"Form SF–3" (OMB Control No. 3235–0690);
"Form 10" (OMB Control No. 3235–0064);
"Form 20–F" (OMB Control No. 3235–0288);
"Form 10–K" (OMB Control No. 3235–0063);
"Form 10–Q" (OMB Control No. 3235–0070);
"Form 8–K" (OMB Control No. 3235–0060);
"Form 10–D" (OMB Control No. 3235–0604);
"Regulation S–K" (OMB Control No. 3235–0071); and
"Regulation S–T" (OMB Control No. 3235–0424).[55]

The forms, reports and Regulation S–K, were adopted under the Securities Act and the Exchange Act and set forth the disclosure requirements for registration statements and reports filed by registrants to help investors make informed investment and voting decisions. Regulation S–T was adopted under the Securities Act and the Exchange Act and sets forth the requirements for the electronic submission of documents filed or otherwise submitted to the Commission. The hours and costs associated with preparing and filing the forms and reports constitute reporting and cost burdens imposed by each collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information requirement unless it displays a currently valid OMB control number. Compliance with the information collections is mandatory. Responses to the information collections are not kept confidential and there is no mandatory retention period for the information disclosed.

B. Summary of the Proposed Amendments

As described in more detail above, we are proposing amendments to Regulations S–K and S–T and Forms F–10 and 20–F to require registrants that file registration statements and reports subject to the exhibit requirements of Item 601 of Regulation S–K, or that file on Forms F–10 and 20–F, to submit these registration statements and reports in HTML format and to include a hyperlink from each exhibit identified in the exhibit index of such forms to the exhibit as filed on EDGAR. Because the software tools to prepare and file documents in HTML are widely used and available at minimal cost, we do not believe this requirement would appreciably change the existing burden estimates for the affected registration statements or reports, which already include the time and expense to prepare and file in electronic format on EDGAR.

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[53] 44 U.S.C. 3501 *et seq.*

[54] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[55] The paperwork burdens from Regulations S–K and S–T are imposed through the forms that are subject to the requirements in these regulations and are reflected in the analysis of those forms. To avoid a PRA inventory reflecting duplicative burdens and for administrative convenience, we assign a one-hour burden to each of Regulation S–K and Regulation S–T.

C. Burden and Cost Estimates Related to the Proposed Amendments

We anticipate that the proposed amendments requiring registrants to hyperlink to exhibits would increase the burdens and costs for registrants to prepare and file the affected forms. We believe the burdens associated with hyperlinking exhibits would be small as the registrant would already be preparing the exhibits and exhibit index for the related filing and would have readily available all the information necessary to create the hyperlinks. In addition, we assume that the average burden hours of requiring exhibit hyperlinks would vary based on the number of exhibits that are included with a filing. For purposes of the PRA, based on the average and median number of exhibits shown in Table 2 above, we estimate the average burden for a registrant to hyperlink to exhibits would be three hours for Forms S–1, S–4, S–11, SF–1, F–1, F–4, F–10, 20–F and 10–K; two hours for Forms S–3, S–8, SF–3, F–3, 10 and 10–Q; and one hour for Forms 10–D and 8–K.

These estimates represent the average burden for all registrants, both large and small. In deriving our estimates, we recognize that the burdens will likely vary among individual registrants based on a number of factors, including the size and complexity of their operations.

The tables below show the total annual compliance burden, in hours and in costs, of the collection of information resulting from the proposed amendments.[56] The burden estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take an issuer to prepare and review the exhibit hyperlinks. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the issuer internally is reflected in hours. For purposes of the PRA, we estimate that 75% of the burden of preparation for Exchange Act reports is carried by the registrant internally and that 25% of the burden of preparation is carried by outside professionals retained by the registrant at an average cost of $400 per hour.[57] For the registration statements on Forms 10, S–1, S–3, S–4, S–11, F–1, F–3, F–4, SF–1 and SF–3, and the Exchange Act report on Form 20–F, we estimate that 25% of the burden of preparation is carried by the company internally and that 75% of the burden of preparation is carried by outside professionals retained by the company at an average cost of $400 per hour. For the registration statement on Form S–8, we estimate that 50% of the burden of preparation is carried by the company internally and that 50% of the burden of preparation is carried by outside professionals.

TABLE 4—INCREMENTAL PAPERWORK BURDEN UNDER THE PROPOSED AMENDMENTS FOR EXCHANGE ACT FORMS

Exchange act forms	Proposed number of affected responses (A)	Incremental burden hours/form (B)	Total incremental burden hours (C) = (A) * (B)	75% Company (D) = (C) * 0.75	25% Professional (E) = (C) * 0.25	Professional costs (F) = (E) * $400
Form 10	238	2	476	119	357	$142,800
Form 20–F	725	3	2,175	544	1,631	652,400
Form 10–K	8,137	3	24,411	18,308	6,103	2,441,200
Form 10–Q	22,907	2	45,814	34,361	11,454	4,581,600
Form 8–K	118,387	1	118,387	88,790	29,597	11,838,800
Form 10–D	13,014	1	13,014	9,761	3,254	1,301,600
Total			204,277			20,958,400

TABLE 5—INCREMENTAL PAPERWORK BURDEN UNDER THE PROPOSED AMENDMENTS FOR SECURITIES ACT REGISTRATION STATEMENTS

Securities act registration statements	Proposed number of affected responses (A)	Incremental burden hours/form (B)	Total incremental burden hours (C) = (A) * (B)	25% Company (D) = (C) * 0.25	75% Professional (E) = (C) * 0.75	Professional costs (F) = (E) * $400
Form S–1	901	3	2,703	676	2,027	$810,900
Form S–3	1,082	2	2,164	541	1,623	649,200
Form S–4	619	3	1,857	464	1,393	557,100
Form S–8	2,200	2	4,400	2,200	2,200	880,000
Form S–11	100	3	300	75	225	90,000
Form SF–1	6	3	18	5	13	5,400
Form SF–3	71	2	142	36	106	42,600
Form F–1	63	3	189	47	142	56,700

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[56] For convenience, the estimated hour and cost burdens in the table have been rounded to the nearest whole number.

[57] We recognize that the costs of retaining outside professionals may vary depending on the nature of the professional services, but for purposes of this PRA analysis we estimate that such costs would be an average of $400 per hour. This estimate is based on consultations with several registrants, law firms and other persons who regularly assist registrants in preparing and filing reports with the Commission.

TABLE 5—INCREMENTAL PAPERWORK BURDEN UNDER THE PROPOSED AMENDMENTS FOR SECURITIES ACT REGISTRATION STATEMENTS—Continued

Securities act registration statements	Proposed number of affected responses (A)	Incremental burden hours/form (B)	Total incremental burden hours (C) = (A) * (B)	25% Company (D) = (C) * 0.25	75% Professional (E) = (C) * 0.75	Professional costs (F) = (E) * $400
Form F–3	107	2	214	54	160	64,200
Form F–4	68	3	204	51	153	61,200
Form F–10	40	3	120	30	90	36,000
Total			12,311			3,253,300

D. Request for Comment

We request comments in order to evaluate: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information; (3) whether there are ways to enhance the quality, utility and clarity of the information to be collected; and (4) whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.[58]

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the collection of information requirements should direct their comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090, with reference to File No. S7–19–16. Requests for materials submitted to the OMB by us with regard to these collections of information should be in writing, refer to File No. S7–19–16 and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington DC 20549–0213. Because the OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, a comment to the OMB is best assured of having its full effect if the OMB receives it within 30 days of publication.

V. Initial Regulatory Flexibility Act Analysis

This Initial Regulatory Flexibility Analysis (IRFA) has been prepared in accordance with the Regulatory Flexibility Act.[59] It relates to proposed amendments that would require registrants to submit registration statements and reports in HTML format and to include a hyperlink to each exhibit that is filed with such registration statement or report.

A. Reasons for, and Objectives of, the Proposed Action

The main purpose of the proposed amendments is to improve investors' access to information—in particular, the ability of EDGAR users to retrieve and access exhibits that are filed with certain registration statements and reports.

B. Legal Basis

We are proposing the amendments under Sections 6, 7, 8, 10 and 19(a) of the Securities Act, and Sections 3, 12, 13, 15(d), 23(a), and 35A of the Exchange Act.

C. Small Entities Subject to the Proposed Rules

The proposed amendments would affect some companies that are small entities. The Regulatory Flexibility Act defines "small entity" to mean "small business," "small organization," or "small governmental jurisdiction."[60] For purposes of the Regulatory Flexibility Act, under our rules, an issuer, other than an investment company, is a "small business" or "small organization" if it had total assets of $5 million or less on the last day of its most recent fiscal year and is engaged or proposing to engage in an offering of securities that does not exceed $5 million.[61] An investment company, including a business development company,[62] is considered to be a "small business" if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[63] We believe that the proposal would affect some small entities that are investment companies. We estimate that there are 837 issuers that file with the Commission, other than investment companies, that may be considered small entities.[64] In addition, we estimate that there are 34 investment companies that would be subject to the proposed amendments that may be considered small entities.

D. Reporting, Recordkeeping, and Other Compliance Requirements

The proposed amendments would impose new compliance requirements for small entities. Under the proposals, a registrant (including a small entity) would be required to submit registration statements and reports in HTML format and to include a hyperlink to each exhibit identified in the exhibit index to such registration statement or report.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The proposed amendments would not duplicate, overlap, or conflict with other federal rules.

F. Significant Alternatives

The Regulatory Flexibility Act directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the proposed amendments, we considered the following alternatives:

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[58] We request comment pursuant to 44 U.S.C. 3506(c)(2)(B).

[59] 5 U.S.C. 601 *et seq.*

[60] 5 U.S.C. 601(6).

[61] *See* Securities Act Rule 157 [17 CFR 230.157] and Exchange Act Rule 0–10(a) [17 CFR 240.0–10(a)].

[62] Business development companies are a category of closed-end investment company that are not registered under the Investment Company Act [15 U.S.C. 80a–2(a)(48) and 80a–53–64].

[63] 17 CFR 270.0–10(a).

[64] This estimate is based on a review of Form 10–K and 20–F filings (from EDGAR XBRL) with fiscal periods ending between January 31, 2015 and January 31, 2016.

- Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Clarifying, consolidating or simplifying compliance and reporting requirements under the rules for small entities;
- Using performance rather than design standards; and
- Exempting small entities from all or part of the requirements.

The proposed amendments would require all registrants that file registration statements and reports that are subject to the exhibit requirements of under Item 601 of Regulation S–K (other than Form ABS–EE), or that file on Forms F–10 or 20–F, to file these forms in HTML format and to hyperlink to each exhibit (other than an exhibit filed in XBRL) identified in the exhibit index contained in the form.

The proposed amendments to require the inclusion of hyperlinks in the exhibit index would impose only minimal burdens on registrants. Similarly, the requirement to submit registration statements and reports in HTML format would not impose significant costs. During calendar year 2015, approximately 0.74% of the forms that would be affected by the proposed amendments were filed in ASCII, and we believe that the HTML format has largely replaced the ASCII format for these form types. The limited use of ASCII indicates that the proposed amendments would affect only a limited number of registrants on a one-time basis. While the registrants that filed forms in ASCII that would be affected by the proposal to require HTML are primarily small entities, we expect that the burden to switch from ASCII to HTML would be not be significant because the software tools to file in HTML format are now widely used and available at a minimal cost. Accordingly, we do not believe that it is necessary to establish different compliance timetables or reporting requirements or exempt small entities from the proposed amendments. For similar reasons, we have not sought to clarify, consolidate or simplify the proposed amendments' requirements for small entities.

The proposed amendments use design rather than performance standards in order to promote uniform filing requirements for all registrants.

G. Request for Comments

We encourage the submission of comments with respect to any aspect of this Initial Regulatory Flexibility Analysis. In particular, we request comments regarding:

- The number of small entity issuers that may be affected by the proposed revisions;
- the existence or nature of the potential impact of the proposed revisions on small entity issuers discussed in the analysis; and
- how to quantify the impact of the proposed amendments.

Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves.

VI. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"),[65] a rule is "major" if it has resulted, or is likely to result, in:

- An annual effect on the economy of $100 million or more;
- a major increase in costs or prices for consumers or individual industries; or
- significant adverse effects on competition, investment or innovation.

We request comment on whether the proposed amendments would be a "major rule" for purposes of SBREFA. We solicit comment and empirical data on: (a) The potential annual effect on the economy; (b) any potential increase in costs or prices for consumers or individual industries; and (c) any potential effect on competition, investment or innovation.

VII. Statutory Authority

The amendments contained in this release are being proposed under the authority set forth in Sections 6, 7, 8, 10 and 19(a) of the Securities Act, and Sections 3, 12, 13, 15(d), 23(a) and 35A of the Exchange Act.

List of Subjects in 17 CFR Parts 229, 232, 239 and 249

Reporting and recordkeeping requirements, Securities.

Text of the Proposed Amendments

For the reasons set out in the preamble, the Commission is proposing to amend Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 1. The authority citation for part 229 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78j–3, 78l, 78m, 78n, 78n–1, 78o, 78u–5, 78w, 78ll, 78mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11 and 7201 *et seq.*; 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111–203, 124 Stat. 1904; and Sec. 102(a)(3) Pub. L. 112–106, 126 Stat. 309; and Sec. 84001, Pub. L. 114–94, 129 Stat. 1312.

■ 2. Amend § 229.601 by revising paragraph (a)(2) to read as follows:

§ 229.601 (Item 601) Exhibits.

(a) * * *

(2) Each registration statement or report shall contain an exhibit index, which must appear before the required signatures in the registration statement or report. For convenient reference, each exhibit shall be listed in the exhibit index according to the number assigned to it in the exhibit table. Where exhibits are incorporated by reference, this fact shall be noted in the exhibit index referred to in the preceding sentence. Each exhibit identified in the exhibit index (other than Form ABS–EE exhibits or an exhibit filed in eXtensible Business Reporting Language) shall include an active hyperlink to the exhibit as filed on EDGAR at the time the registration statement becomes effective or report is filed, whether or not the exhibit is incorporated by reference, pursuant to Rule 105 of Regulation S–T (§ 232.105 of this chapter). For a description of each of the exhibits included in the exhibit table, see paragraph (b) of this section.

* * * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 3. The authority citation for Part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*, 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

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[65] Public Law 104–121, Title II, 110 Stat. 857 (1996).

■ 4. Amend § 232.11 by revising the definition of the terms "Hypertext links or hyperlinks" to read as follows:

§ 232.11 Definition of terms used in part 232.

* * * * *

Hyperlink. The term *hyperlink* means the representation of an Internet address in a form that an Internet browser application can recognize as an Internet address.

* * * * *

■ 5. Amend § 232.102 by revising paragraph (d) to read as follows:

§ 232.102 Exhibits.

* * * * *

(d) Each electronic filing requiring exhibits must include an exhibit index which must appear before the required signatures in the document. The index must list each exhibit filed, whether filed electronically or in paper. For electronic filings on Form F–10 (§ 239.40 of this chapter), Form 20–F (§ 249.220f of this chapter), or filings subject to Item 601 of Regulation S–K (§ 229.601 of this chapter) other than Form ABS–EE (§ 249.1401 of this chapter), each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) shall include an active hyperlink to the exhibit as filed on EDGAR, whether or not the exhibit is incorporated by reference, pursuant to § 232.105. Whenever a filer files an exhibit in paper pursuant to a temporary or continuing hardship exemption (§ 232.201 or § 232.202) or pursuant to § 232.311, the filer must place the letter "P" next to the listed exhibit in the exhibit index of the electronic filing to reflect the fact that the filer filed the exhibit in paper. In addition, if the exhibit is filed in paper pursuant to § 232.311, the filer must place the designation "Rule 311" next to the letter "P" in the exhibit index. If the exhibit is filed in paper pursuant to a temporary or continuing hardship exemption, the filer must place the letters "TH" or "CH," respectively, next to the letter "P" in the exhibit index. Whenever an electronic confirming copy of an exhibit is filed pursuant to a hardship exemption (§ 232.201 or § 232.202(d)), the exhibit index should specify where the confirming electronic copy can be located; in addition, the designation "CE" (confirming electronic) should be placed next to the listed exhibit in the exhibit index.

* * * * *

■ 6. Amend § 232.105 by revising the section heading, paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 232.105 Use of HTML and hyperlinks.

* * * * *

(b) Electronic filers may not include in any HTML document hyperlinks to sites, locations, or documents outside the HTML document, except to links to officially filed documents within the current submission and to documents previously filed electronically and located in the EDGAR database on the Commission's public Web site (*www.sec.gov*). Electronic filers also may include within an HTML document hyperlinks to different sections within that single HTML document.

(c) If a filer includes an external hyperlink within a filed document, the information contained in the linked material will not be considered part of the document for determining compliance with reporting obligations, but the inclusion of the link will cause the filer to be subject to the civil liability and antifraud provisions of the federal securities laws with reference to the information contained in the linked material.

(d) Electronic filers submitting Form F–10 (§ 239.40 of this chapter), Form 20–F (§ 249.220f of this chapter), or a registration statement or report (other than Form ABS–EE (§ 249.1401 of this chapter)), subject to Item 601 of Regulation S–K (§ 229.601 of this chapter), must submit such registration statement or report in HTML and each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) shall include an active hyperlink to the exhibit as filed on EDGAR at the time the registration statement becomes effective or report is filed, whether or not the exhibit is incorporated by reference, unless such exhibit is filed in paper pursuant to a temporary or continuing hardship exemption under Rules 201 or 202 of Regulation S–T (§ 232.201 or § 232.202) or pursuant to Rule 311 of Regulation S–T (§ 232.311).

Note to paragraph (d): No hyperlink is required for any exhibit incorporated by reference that has not been filed with the Commission in electronic format.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 7. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o–7 note, 78u–5, 78w(a), 78ll, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, 80a–37, and Sec. 71003 and Sec. 84001, Pub. L. 114–94, 129 Stat. 1312, unless otherwise noted.

* * * * *

■ 8. Amend Form F–10 (referenced in § 239.40) by revising paragraph D of General Instruction II to read as follows:

Note: The text of Form F–10 does not, and this amendment will not, appear in the Code of Federal Regulations.

United States Securities and Exchange Commission

Washington, DC 20549

Form F–10

Registration Statement Under the Securities Act of 1933

* * * * *

General Instructions

* * * * *

II. Application of General Rules and Regulations

* * * * *

D. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 551–8900. For assistance with the EDGAR rules, call the Office of Information Technology in the Division of Corporation Finance at (202) 551–3600.

Include an exhibit index in the registration statement, which must appear before the required signatures in the document. The exhibit index must list each exhibit according to the letter or number assigned to it. If an exhibit is incorporated by reference, note that fact in the exhibit index. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) must include an active hyperlink to the exhibit as filed on EDGAR at the time the registration statement becomes effective, whether or not the exhibit is incorporated by reference, pursuant to Rule 105 of Regulation S–T (17 CFR 232.105). For paper filings, the pages of the manually signed original registration statement should be numbered in sequence, and the exhibit index should give the page number in the sequential numbering system where each exhibit can be found.

If filing the registration statement in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, a registrant must file with the Commission at its principal office five copies of the complete registration statement and any amendments, including exhibits and all other documents filed as a part of the registration statement or amendment. The registrant must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The registrant must further bind the registration statement or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The registrant must provide three additional copies of the registration statement or amendment without exhibits to the Commission.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 9. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3) Pub. L. 112–106, 126 Stat. 309 (2012), Sec. 107 Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001 Pub. L. 114–94, 129 Stat. 1312 (2015), unless otherwise noted.

■ 10. Amend Form 20–F (referenced in § 249.220f) by revising the fourth paragraph of the introductory text under "Instructions as to Exhibits" to read as follows:

Note: The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 20–F

* * * * *

Part III

* * * * *

Item 19. Exhibits.

* * * * *

INSTRUCTIONS AS TO EXHIBITS

* * * * *

Include an exhibit index in each registration statement or report you file, which must appear before the required signatures in the document. The exhibit index must list each exhibit according to the number assigned to it below. If an exhibit is incorporated by reference, note that fact in the exhibit index. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) must include an active hyperlink to the exhibit as filed on EDGAR at the time the document is filed or, if this form is being used as a registration statement, at the time the registration statement becomes effective, whether or not the exhibit is incorporated by reference, pursuant to Rule 105 of Regulation S–T (17 CFR 232.105). For paper filings, the pages of the manually signed original registration statement should be numbered in sequence, and the exhibit index should give the page number in the sequential numbering system where each exhibit can be found.

* * * * *

By the Commission.

Dated: August 31, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–21313 Filed 9–9–16; 8:45 am]

BILLING CODE 8011–01–P

Notices

Federal Register
Vol. 81, No. 176
Monday, September 12, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0063]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Communicable Diseases in Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the interstate movement of horses that have tested positive for equine infectious anemia.

DATES: We will consider all comments that we receive on or before November 14, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0063.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0063, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0063* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the interstate movement of horses that have tested positive for equine infectious anemia, contact Dr. Rory Carolan, National Equine Programs, Surveillance, Preparedness and Response Services, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737; (301) 851–3558. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: Communicable Diseases in Horses.

OMB Control Number: 0579–0127.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the authority of the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) regulates the importation and interstate movement of animals and animal products, and conducts various other activities to protect the health of U.S. livestock and poultry.

Equine infectious anemia (EIA) is an infectious and potentially fatal viral disease of equines. There is no vaccine or treatment for the disease. It is often difficult to differentiate from other fever-producing diseases, including anthrax, influenza, and equine encephalitis.

The regulations in 9 CFR 75.4 govern the interstate movement of equines that have tested positive to an official test for EIA (EIA reactors) and provide for the approval of laboratories, diagnostic facilities, and research facilities. Ensuring the safe movement of these horses requires the use of information collection activities, including an EIA laboratory test form, a certificate or permit for the interstate movement of an EIA reactor, a supplemental investigation form if a horse tests positive for EIA, agreements, request for hearing, and written notification of withdrawal of approval.

The regulations also require laboratories conducting an official EIA test to be approved by the APHIS Administrator in consultation with the appropriate State animal health officials of the State. Approval of a laboratory requires the collection of information, such as the name of the director, location, facilities, appropriate resources, and training and proficiency of employees. This information helps us determine a laboratory's capacity to conduct accurate and reliable testing and to meet the requirements in the regulations. In addition, a laboratory must enter an agreement with APHIS and undergo regular inspections to receive and maintain approval. We are adding these activities to this collection.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.083 hours per response.

Respondents: Producers, veterinarians, State veterinarians, and laboratory directors.

Estimated annual number of respondents: 235,005.

Estimated annual number of responses per respondent: 6.

Estimated annual number of responses: 1,416,075.

Estimated total annual burden on respondents: 118,010 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 6th day of September 2016.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–21840 Filed 9–9–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

Information Collection Request; Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) and the Farm Service Agency (FSA) are requesting comments from all interested individuals and organizations on an extension of a currently approved information collection. CCC and FSA use the information to determine whether representatives or survivors of a producer are entitled to receive payments earned by a producer who dies, disappears, or is declared incompetent before receiving payments or other disbursements.

DATES: We will consider comments that we receive by November 14, 2016.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Joe Lewis Jr., Agricultural Program Specialist, USDA, FSA STOP 0572, 1400 Independence Avenue SW., Washington, DC 20250–0572.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Joe Lewis Jr. at the above address.

FOR FURTHER INFORMATION CONTACT: Joe Lewis Jr., (202) 720–0795.

SUPPLEMENTARY INFORMATION:

Title: Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

OMB Control Number: 0560–0026.

Expiration Date: December 31, 2016.

Type of Request: Extension.

Abstract: Persons desiring to claim payments earned, but not yet paid to a person who has died, disappeared, or has been declared incompetent must complete form FSA–325, Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent. This information required by form FSA–325 is used by FSA county office employees to document the relationship of heirs, beneficiaries, or others who claim payment that was earned, but not yet paid to the person who died, disappeared, or who has been declared incompetent, and to determine the share and order of precedence for disbursing payments to such persons.

Information is obtained only when a person claims that they are due a payment that was earned, but not paid to a producer that has died, disappeared, or has been declared incompetent, and documentation is needed to determine if any individuals are entitled to receive such payments or disbursements.

The formula used to calculate the total burden hours is the estimated average time per response times total annual responses.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.5 hours per response. The average travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent.

Respondents: Producers.

Estimated Number of Respondents: 2,000.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 2,000.

Estimated Average Time per Responses: 1.5 hours.

Estimated Total Annual Burden Hours on Respondents: 3,000.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice, including name and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Val Dolcini,

Executive Vice President, Commodity Credit Corporation, and Administrator, Farm Service Agency.

[FR Doc. 2016–21654 Filed 9–9–16; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2016–0029]

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Hygiene

AGENCY: Office of the Deputy Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Deputy Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), are sponsoring a public meeting on October 11, 2016. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions to be discussed at the 48th Session of the Codex Committee on Food Hygiene (CCFH) of the Codex Alimentarius Commission (Codex), taking place in Los Angeles, CA, November 7–11, 2016. The Deputy Under Secretary for Food Safety and the FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 48th Session of the CCFH and to address items on the agenda.

DATES: The public meeting is scheduled for Tuesday, October 11, 2016, from 1:00 p.m.–4:00 p.m.

ADDRESSES: The public meeting will take place at the USDA, Jamie L.

Whitten Building, 1400 Independence Avenue SW., Room 107–A, Washington, DC 20250.

Documents related to the 48th Session of the CCFH will be accessible via the Internet at the following address: *http://www.codexalimentarius.org/meetings-reports/en/.*

Jenny Scott, U.S. Delegate to the 48th Session of the CCFH, invites U.S. interested parties to submit their comments electronically to the following email address *Jenny.Scott@fda.hhs.gov.*

Call–in–Number: If you wish to participate in the public meeting for the 48th Session of the CCFH by conference call, please use the call-in-number listed.

Call-in-Number: 1–888–844–9904

The participant code will be posted on the following Web page: *http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/us-codex-alimentarius/public-meetings.*

Registration: Attendees may register to attend the public meeting by emailing *barbara.mcniff@fsis.usda.gov* by October 5, 2016. Early registration is encouraged as it will expedite entry into the building. The meeting will take place in a Federal building. Attendees should bring photo identification and plan for adequate time to pass through security screening systems. Attendees that are not able to attend the meeting in person, but wish to participate may do so by phone.

FOR FURTHER INFORMATION ABOUT THE 48TH SESSION OF THE CCFH CONTACT: Jenny Scott, Senior Advisor, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5100 Paint Branch Parkway, HFS–300, Room 3B–014, College Park, MD 20740–3835, Telephone: (240) 402–2166, Fax: (202) 436–2632, Email: *Jenny.Scott@fda.hhs.gov.*

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Barbara McNiff, U.S. Codex Office, 1400 Independence Avenue SW., Room 4861, Washington, DC 20250, Telephone: (202) 690–4719, Fax: (202) 720–3157, Email: *Barbara.McNiff@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, the Codex seeks to protect the health of consumers and ensure fair practices are used in the food trade.

The CCFH is responsible for:

(a) Drafting basic provisions on food hygiene applicable to all food;

(b) Considering, amending if necessary, and endorsing provisions on hygiene prepared by Codex commodity committees and contained in Codex commodity standards;

(c) Considering, amending if necessary, and endorsing provisions on hygiene prepared by Codex commodity committees and contained in Codex codes of practice unless, in specific cases, the Commission has decided otherwise;

(d) Drafting provisions on hygiene applicable to specific food items or food groups, whether coming within the terms of reference of a Codex commodity committee or not;

(e) Considering specific hygiene problems assigned to it by the Commission;

(f) Suggesting and prioritizing topics on which there is a need for microbiological risk assessment at the international level and developing questions to be addressed by the risk assessors; and

(g) Considering microbiological risk management matters in relation to food hygiene, including food irradiation, and in relation to the risk assessment of FAO and WHO.

The CCFH is hosted by the United States.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 48th Session of the CCFH will be discussed during the public meeting:

- Matters referred by Codex or other Codex Subsidiary Bodies to the Food Hygiene Committee.
- Matters arising from the work of the FAO, WHO, and Other International Intergovernmental Organizations:

(a) Progress report on the Joint FAO/WHO expert meeting on Microbiological Risk Assessment and Related Matters.

(b) Information from the World Organization for Animal Health (OIE).

- Proposed draft revision of the General Principles of Food Hygiene and its HACCP Annex at Step 4.
- Proposed draft revision of the Code of Hygienic Practice for Fresh Fruits and Vegetables at Step 4.
- Proposed draft Guidance on the Histamine control and sampling plans for histamine at Step 4.
- Proposal to merge all guidance for control of foodborne parasites: Guideline on the Application of General Principles of Food Hygiene to the Control of Food Parasites.
- Other business and future.

(a) New Work/Forward Work Plan.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat before the meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the October 11, 2016, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 48th Session of the CCFH, Jenny Scott (see **ADDRESSES**). Written comments should state that they relate to the activities of the 48th Session of the CCFH.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United

States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410

Fax: (202) 690–7442

Email: program.intake@usda.gov

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on September 7, 2016.

Paulo Ameida,

Acting U.S. Manager for Codex Alimentarius.

[FR Doc. 2016–21890 Filed 9–9–16; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Nicolet Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Nicolet Resource Advisory Committee (RAC) will meet in Crandon, Wisconsin. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and approve project submissions.

DATES: The meeting will be held Tuesday, September 27, 2016 at 9:30 a.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Forest County Courthouse, County Boardroom, 200 East Madison Street, Crandon, Wisconsin.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Laona Ranger District. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Penny K. McLaughlin, RAC Coordinator, by phone at 715–362–1381 or via email at *pmclaughlin@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_page?id=001t0000002Jcw2AAColet.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 19, 2016 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Penny K. McLaughlin, RAC Coordinator, Chequamegon-Nicolet National Forest Supervisor's Office, 500 Hanson Lake Road, Rhinelander, Wisconsin 54501; by email to *pmclaughlin@fs.fed.us* or via facsimile to 715–369–8859.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: September 6, 2016.

Linda Riddle,

Forest Supervisor.

[FR Doc. 2016–21832 Filed 9–9–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Renewal of the National Urban and Community Forestry Advisory Council.

SUMMARY: The U.S. Department of Agriculture renewed the National Urban and Community Forestry Advisory Council (Council). In accordance with provisions of the Federal Advisory Committee Act (FACA), the Council was renewed to continue (1) developing a National Urban and Community Forestry action plan in accordance with section 9(g)(3)(A–F) of the Act; (2) evaluating the implementation of the plan; (3) developing criteria; and (4) submitting recommendations for the Forest Service's National Urban and Community Forestry Cost-share Grant Program as required by section 9(f)(1–2) of the Act. The Council is necessary and in the public's interest.

FOR FURTHER INFORMATION CONTACT: Nancy Stremple, U.S. Department of Agriculture (USDA), Forest Service, State and Private Forestry, Cooperative Forestry, Yates Building, 3NW, Mail Stop 1151, 201 14th Street SW., Washington, DC 20250, or by telephone at 202–205–7829. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App 2), section 9 of the Cooperative Forestry Assistance Act, as amended by title XII, section 1219 of Public Law 101–624 (Act) (16 U.S.C. 2105g), and with the concurrences of the General Services Administration (GSA), the Secretary of Agriculture (Secretary) renewed the Council.

The Council is a statutory advisory committee. The Council operates under the provisions of FACA and will report to the Secretary of Agriculture through the Chief of the Forest Service.

The purpose of the Council is to provide advice on urban and community forestry and related natural resources and make recommendations on how USDA can tailor its programs to better serve the needs of the the urban and forestry community of practice. The Council will perfom the following tasks listed above in the "*Summary Section*".

Advisory Committee Organization

The Council is currently comprised of 15 members who provide a balanced and broad representation within each of the following interests:

(1) Two members representing national nonprofit forestry and conservation citizen organizations;

(2) Three members, one each representing State, county, and city and town governments;

(3) One member representing the forest products, nursery, or related industries;

(4) One member representing urban forestry, landscape, or design consultants;

(5) Two members representing academic institutions with an expertise in urban and community forestry activities;

(6) One member representing state forestry agencies or equivalent state agencies;

(7) One member representing a professional renewable natural resource or arboricultural society;

(8) One member from Extension Service (National Institute of Food & Agriculture);

(9) One member from the Forest Service; and

(10) Two members who are not officers or employees of any governmental body, one of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active in urban and community forestry.

Members of the Council serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Committee, subject to approval by the Designated Federal Official (DFO). The Council meets bi-annually or as often as necessary and at such times as designated by the DFO.

The appointment of members to the Council is made by the Secretary. Further information about the Council is posted on the National Urban and Community Forestry Advisory Council Web site: *www.fs.fed.us/ucf.nucfac.*

Equal opportunity practices in accordance with USDA policies will be followed in all appointments to the Council. To ensure that the recommendations of the Council have been taken into account the needs of diverse groups served by USDA, the membership shall include, to the extent practicable, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

Dated: August 31, 2016.

Gregory L. Parham,

Assistant Secretary for Administration.

[FR Doc. 2016–21843 Filed 9–9–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Yakutat Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Yakutat Resource Advisory Committee (RAC) will meet in Yakutat, Alaska. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcvkAAC.*

DATES: The meeting will be held September 28, 29 and 30, 2016 from 6 p.m. to 8 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact: Lee A. Benson, District Ranger and Deisgnated Federal Official, Yakutat Ranger District, (907) 784–3359.

ADDRESSES: The meeting will be held at the Kwaan Conference Room, 712 Ocean Cape Drive, Yakutat, Alaska. Send written comments to Lee A. Benson, c/o Forest Service, USDA, P.O. Box 327, Yakutat, AK 99689, electronically to *labenson@fs.fed.us,* or via facsimile to 907–784–3457.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Yakutat Ranger District Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lee A. Benson, District Ranger by phone at (907) 784–3359 or via email at *labenson@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to: Review current and completed projects. We will also review proposals submitted for 2017 through 2019 project years.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 16, 2106 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lee A. Benson, District Ranger, P.O. Box 327, Yakutat, AK 99689 by email to *labenson@fs.fed.us,* or via facsimile to (907) 784–3457.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: August 31, 2016.

Lee A. Benson,

District Ranger.

[FR Doc. 2016–21803 Filed 9–9–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Sites; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Nez Perce—Clearwater National Forests, USDA Forest Service.

ACTION: Notice of new fee sites.

SUMMARY: The Nez Perce—Clearwater National Forests is proposing to charge fees at the following sites:

- Aquarius—Purple Beach Group Site, North Fork Ranger District: Proposed fee of $15 per night and an additional $5 extra vehicle, per night fee for more than 2 vehicles. The adjacent day use picnic area will remain free to public use.
- Cedar Flats Sewer Dump Station, Fenn Ranger Station, Moose Creek Ranger District: Proposed fee of $10 per use/waste dump.
- Elk River Day Use Picnic & Group Shelter, Palouse Ranger District: Proposed fee of $25 daily rental of the group day use facilities which includes a large group shelter, with a maximum capacity of 150 persons and parking for 30 vehicles. Advance reservations for this site will be available through the National Recreation Reservation System.
- Fish Creek Group Site, Salmon River Ranger District: Proposed fee of $25 per night with a maximum capacity of 75 and 20 vehicles. Advance reservations for this site will be available through the National Recreation Reservation System.
- Gold Meadows Cabin Rental, Lochsa/Powell Ranger District: Proposed fee of $40 per night. Advance reservations for this site will be available through the National Recreation Reservation System.
- Liz Creek Cabin Rental, North Fork Ranger District: Proposed fee of $40 per night. Advance reservations for this site will be available through the National Recreation Reservation System.
- Lolo Creek Campground, Lochsa/Powell Ranger District: Proposed fee of $12 per night.
- Partridge Creek Campground, Palouse Ranger District; Proposed fee of $12 per night.
- Scurvy Mountain Lookout Rental, North Fork Ranger District: Proposed fee of $45 per night. Advance reservations for this site will be available through the National Recreation Reservation System.
- Wallow Mountain Lookout Rental, North Fork Ranger District: Proposed fee of $45 per night. Advance reservations for this site will be available through the National Recreation Reservation System.

Additional construction is required at Partridge Creek Campground prior to implementation of proposed fee, and is planned to occur in 2016 and 2017. No fee will be charged prior to completion. The four proposed cabin and fire lookout rentals have not been available for recreation use prior to this date. Rentals of other cabins and lookouts on the Nez Perce-Clearwater National Forests have shown that people appreciate and enjoy the opportunity and availability of these rentals.

The proposed campgrounds, day use group shelters, and dump station have been previously open for public use, free of charge; however, all these sites have received upgrades and the 2014 Recreation Facility Analysis recommended considering fees be implemented to continue the availability and provision of services. Funds generated at these sites will be used for the continued operation and maintenance, upkeep of facilities, and improvements as feasible. These fees are only proposed and will be determined upon further analysis and public comment.

DATES: Send any comments about these fee proposals by October 14, 2016 so comments can be compiled, analyzed, and shared with the Bureau of Land Management (BLM) Coeur d'Alene Resource Advisory Committee. With the exception of the Partridge Creek Campground, the proposed effective date of implementation of proposed new fees will be no earlier than six months after publication of this notice.

ADDRESSES: Cheryl Probert, Forest Supervisor, Nez Perce—Clearwater National Forests, 903 3rd Street, Kamiah, Idaho 83536 or Email to *cprobert@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Diana Jones, Landscape Architect Nez Perce—Clearwater National Forests at 208–476–8239 or *dljones@fs.fed.us;* Information about proposed fee changes can also be found on the Nez Perce—Clearwater National Forests Web site at *http://www.fs.usda.gov/nezperceclearwater.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. Once public involvement is complete, these new fees will be reviewed by the BLM Coeur d'Alene Resource Advisory Committee prior to a final decision and implementation.

A business analysis of the proposed new fee sites listed has shown that people desire having a variety of recreation opportunities and experiences throughout the Nez Perce—Clearwater National Forests, such as group camping, cabin and lookout rentals and single family camping. A market analysis of surrounding recreation sites with similar amenities indicates that the proposed fees are comparable and reasonable.

People wanting to reserve the identified sites will need to do so through the National Recreation Reservation Service, at *www.recreation.gov* or by calling 1–877–444–6777. The National Recreation Reservation Service charges a $9 fee per reservation.

Dated: September 1, 2016.

Cheryl F. Probert,

Nez Perce—Clearwater Forest Supervisor.

[FR Doc. 2016–21833 Filed 9–9–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Rio Grande National Forest; Colorado; Revision of the Land Management Plan for the Rio Grande National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: As directed by the National Forest Management Act, the USDA Forest Service is preparing the revised land management plan (forest plan) for the Rio Grande National Forest. The agency will prepare an environmental impact statement (EIS) for the revised plan. The revised forest plan will supersede the existing forest plan previously approved by the responsible official for the Rio Grande National Forest in 1996. The existing forest plan has been amended several times since its approval. The existing forest plan, as amended, will remain in effect until the revised forest plan is approved. The plan will be revised under the 2012 Planning Rule and will provide for social, economic and ecological sustainability within Forest Service authority and the inherent capability of the plan area.

DATES: Comments concerning the scope of the analysis will be accepted throughout the entire plan revision process, however members of the public who wish to establish standing to participate in the administrative review process must submit substantive formal comments on the plan revision within 45 days of the publication of the Legal Notice in the Valley Courier in accordance with 36 CFR 219 Subpart B.

ADDRESSES: Comments may be sent in one of the following ways: (1) Via the Forest Plan Revision email address: *rgnf_forest_plan@fs.fed.us* or (2) send or deliver written comments to the Rio Grande National Forest's Supervisor's Office, Attn: Forest Plan Revision, 1803 W. Highway 160, Monte Vista, CO 81144.

FOR FURTHER INFORMATION CONTACT: Erin Minks, Forest Planner, *eminks@fs.fed.us,* 719–852–6215 or Mike Blakeman, Public Affairs Officer, *mblakeman@fs.fed.us,* 719–852–6212. Information on plan revision is also available at the forest Web site *www.fs.usda.gov/riogrande.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose and need for revising the Rio Grande forest plan is primarily the age of the current plan and a significant changed condition on the forest. According to the National Forest Management Act, forest plans are to be revised on a 10 to 15 year cycle. The current forest plan is 20 years old and has been amended seven times. Since the forest plan was approved in 1996, there have also been significant changes in economic, social, and ecological conditions in the plan area, including the infestation of 588,000 acres of the spruce by the spruce beetle.

The purpose and need for revising the current plan is also to incorporate new policies, priorities, information from monitoring reports and scientific research as required under the 2012 Planning Rule. The Rio Grande has completed monitoring reports annually from 1997 through 2013. The 2012 Planning Rule, which became effective May 9, 2012, requires inclusion of plan components that address social and economic sustainability, ecosystem services, and multiple uses integrated with the plan components for ecological sustainability and species diversity. Social and economic management direction is needed to provide people and communities with a range of social and economic benefits for present and future generations. To meet the Planning Rule's requirement to provide for ecological sustainability, management direction is also needed that addresses ecosystem integrity and diversity, including key ecosystem characteristics, in light of changes in climate, land ownership and recreational use patterns, as well as other threats and stressors to those ecosystems.

Revised plan components are needed that focus on maintaining or restoring aquatic and terrestrial ecosystems to provide for species diversity including threatened and endangered species, and species of conservation concern. Additionally, updates and modifications to management direction are needed to address suitability of certain areas for particular uses, address access and sustainable recreation and provide for the management of existing and anticipated uses. The 2012 Planning Rule also requires the identification of acreage suitable for timber harvest on the forest, the re-evaluation of the maximum quantity of timber that may be removed from the plan area, a description of the proposed and possible actions related to the planned timber sale program, timber harvesting levels, and the proportion of various methods of forest vegetation management practices.

Most importantly, the purpose and need is to address the identified needs to change the existing plan presented to the public in March 2016 and refined into an initial proposal in July 2016. These needs for change were identified through the monitoring reports mentioned above, internal staff recommendations, and the assessment phase of the revision process which was initiated in December 2014 and completed in March 2016. Extensive public and employee involvement, along with science-based evaluations, have helped identify these preliminary needs to change the existing forest plan. During the assessment phase alone, over fifty public meetings were held in multiple forums to engage the public on the current condition and potential needs to change the management of the forest. Upon completion of the assessment phase, two additional rounds of meetings were held on each district in March and July of 2016 to discuss and further refine the needs for change and initial proposal summarized in the proposed action items described below.

Proposed Action

The Proposed Action is to revise the forest plan to address the needs to change the existing forest plan presented to the public in March 2016 and refined into the initial proposal in July of 2016.

The Rio Grande National Forest is proposing to establish a new adaptive management framework that will guide development of the forest plan direction and required components for the next 10 to 15 years. This framework is designed to increase the responsiveness of forest managers to changing conditions on the landscape, changes in higher level direction, and new technologies that are not yet foreseen. This framework was developed with the public through the spring and summer of 2016 and includes an overarching geographic area layer above the forest's existing management area layer, tiered to levels of active management, the forest's discretion in said management, and the current legal status of the land. This framework provides a vehicle for the future plan to better communicate how the agency manages the forest, a common theme heard throughout the public process.

The Proposed Action also includes forest-wide goals, objectives and desired conditions tied to management areas, tiered to this management framework and directed by the 2012 Planning Rule. Many of these objectives and desired conditions are pulled from the existing 1996 Forest Plan but are organized differently to fit into this overall adaptive management framework. To ensure for management accountability, however, the forest will develop additional required plan components, including standards, guidelines, and suitability determinations during the scoping process and analysis to reflect this adaptive management strategy while ensuring for ecosystem integrity, sustainability, habitat connectivity and the viability of species of conservation concern.

The Proposed Action identifies watersheds that are a priority for maintenance and restoration. It also includes an estimate of what may be suitable timber acreage for the next 10–15 years on the forest, as well as proposal for fire management zones at the geographic level reflecting the level of risk and benefit involved in managing fire for resource benefit.

The forest also intends to re-evaluate the suitability of national forest lands to support other multiple uses, including over the snow vehicle use, communication sites, and utility corridors during analysis, following the development of alternatives to the proposed action with the public.

The Proposed Action identifies 34 stream reaches to be taken into analysis for potential inclusion in the National Wild and Scenic River System first presented to the public in draft form in July 2016.

The forest is still evaluating areas for wilderness character pursuant to Chapter 70 direction in the Forest Service Handbook 1909.12. The final decision will reflect the analysis of alternatives developed during scoping and a broad range of recommendations.

The Proposed Action also describes a monitoring strategy as part of the adaptive management framework while ensuring for accountability. It identifies eight monitoring topics required by the 2012 Planning Rule, describes a developing partnership with the State and Private Forestry Forest Inventory and Analysis program to share information currently being collected on the forest. It also establishes an expectation of an annual information sharing meeting with the public to gauge the implementation of the revised plan and any potential needs for change which might require a forest-plan amendment or administrative change. Specific monitoring questions to inform plan components will be developed during scoping and refined during analysis.

Lead and Cooperating Agencies

Throughout the revision process the Rio Grande National Forest is the Lead Agency. The following entities have been formally identified as Cooperating Agencies: Bureau of Land Management, State of Colorado Department of Natural Resources, the counties of Alamosa, Conejos, Saguache, Hinsdale, Rio Grande, and Mineral, and the Navajo Nation.

Responsible Official

Dan Dallas, Forest Supervisor, Rio Grande National Forest, 1803 W. Highway 160, Monte Vista, CO 81144, 719–852–5941.

Nature of Decision To Be Made

As the forest plan is revised, the responsible official will use the National Environmental Policy Act (NEPA) process to develop alternatives to the proposed action and decide which alternative best promotes the ecological integrity and sustainability of the Rio Grande National Forest's ecosystems, watersheds, and diverse plant and animal communities. In addition, the responsible official will decide if the plan provides sufficient management guidance to contribute to social and economic sustainability, and to provide people and communities with ecosystem services and multiple uses including a range of social, economic, and ecological benefits for the present and into the future. The responsible official will also determine whether to make new recommendations for Wilderness and other designated areas.

The revised forest plan will provide strategic direction and a framework for decision making during the life of the plan, and will not repeat information already required or described in existing laws, regulations, or guidance. It will not make site-specific project decisions and will not dictate day-to-day administrative activities needed to carry on the Forest Service's internal operations. The authorization of project-level activities will be based on the direction contained in the revised forest plan, but will occur through subsequent project specific decision making, including NEPA analysis. The revised forest plan will provide broad, strategic guidance designed to supplement, not replace, overarching laws and regulations. Though strategic guidance will be provided, no decisions will be made regarding the management of individual roads or trails, such as those that might be associated with a travel management plan under 36 CFR part 212. Some issues, although important, are beyond the authority or control of a forest plan and will not be addressed during this revision process. For example, the revision process cannot be used to modify inventoried roadless area boundaries established by the Colorado Roadless Rule.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. Written comments received in response to this notice will be analyzed to further develop the proposed revised forest plan and identify potential significant issues. Significant issues will, in turn, form the basis for developing alternatives to the proposed action.

It is important that reviewers provide their comments such that they are useful to the agency's preparation of the EIS. Comments on the proposed action will be most valuable if received within 45 days of the publication of the Legal Notice in the Valley Courier newspaper and should clearly articulate the reviewer's opinions and concerns. Comments received in response to this solicitation, including names and addresses of those who comment, will become part of the public record. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents. See the section below concerning the objection process and the requirements for filing an objection.

The Forest Service continues to receive comments related to the draft evaluation of areas for wilderness character presented to the public in July 2016. The areas analyzed will form the basis for recommendations for future Wilderness designation.

Decision Will Be Subject to Objection

The decision to approve the revised forest plan for the Rio Grande National Forest will be subject to the objection process identified in 36 CFR 219 Subpart B (219.50 to 219.62). According to 36 CFR 219.53(a), those who may file an objection are individuals and entities who have submitted substantive formal comments related to plan revision during the opportunities provided for public comment during the planning process.

Documents Available for Review

The 1996 Forest Plan as amended, Monitoring Reports; Assessments; March 2016 Need for Change; July 2016 Initial Proposal; Proposed Action and supporting documents; and information from previous public meetings are posted on the Rio Grande National Forest's Web site at *www.fs.usda.gov/riogrande*. The material available on this site may be revised or updated at any time as part of the planning process.

Authority: 16 U.S.C. 1600–1614; 36 CFR part 219 [77 FR 21162–21276].

Dated: September 6, 2016.

Dan Dallas,

Forest Supervisor, Rio Grande National Forest.

[FR Doc. 2016–21837 Filed 9–9–16; 8:45 am]

BILLING CODE 3411–15–P

UNITED STATES COMMISSION ON CIVIL RIGHTS

Advisory Committees Expiration

AGENCY: United States Commission on Civil Rights.

ACTION: Solicitation of applications.

SUMMARY: Because the terms of the members of the Montana Advisory Committee are expiring on November 20, 2016, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Montana Advisory Committee, and applicants must be residents of Montana to be considered. Letters of interest must be received by the Rocky Mountain Regional Office of the U.S. Commission on Civil Rights no later than October 11, 2016. Letters of interest must be sent to the address listed below.

Because the terms of the members of the New Mexico Advisory Committee are expiring on November 20, 2016, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the New Mexico Advisory Committee, and applicants must be residents of New Mexico to be considered. Letters of interest must be received by the Rocky Mountain Regional Office of the U.S. Commission on Civil Rights no later than October 11, 2016. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Alaska Advisory Committee are expiring on November 20, 2016, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply.

The memberships are exclusively for the Alaska Advisory Committee, and applicants must be residents of the Alaska to be considered. Letters of interest must be received by the Western Regional Office of the U.S. Commission on Civil Rights no later than October 11, 2016. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Wyoming Advisory Committee are expiring on November 20, 2016, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Wyoming Advisory Committee, and applicants must be residents of the Wyoming to be considered. Letters of interest must be received by the Rocky Mountain Regional Office of the U.S. Commission on Civil Rights no later than July 14, 2016. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Indiana Advisory Committee are expiring on December 11, 2016, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Indiana Advisory Committee, and applicants must be residents of the Indiana to be considered. Letters of interest must be received by the Midwestern Regional Office of the U.S. Commission on Civil Rights no later than October 11, 2016. Letters of interest must be sent to the address listed below.

DATES: Letters of interest for membership on the Montana Advisory Committee should be received no later than October 11, 2016.

Letters of interest for membership on the New Mexico Advisory Committee should be received no later than October 11, 2016.

Letters of interest for membership on the Alaska Advisory Committee should be received no later than October 11, 2016.

Letters of interest for membership on the Wyoming Advisory Committee should be received no later than October 11, 2016.

Letters of interest for membership on the Indiana Advisory Committee should be received no later than October 11, 2016.

ADDRESSES: Send letters of interest for the Montana Advisory Committee to: U.S. Commission on Civil Rights, Rocky Mountain Regional Office, Byron Rogers Federal Office Building, 1961 Stout Street, Suite 13–201, Denver, CO 80294. Letters can also be sent via email to *mcraft@usccr.gov.*

Send letters of interest for the New Mexico Advisory Committee to: U.S. Commission on Civil Rights, Rocky Mountain Regional Office, Byron Rogers Federal Office Building, 1961 Stout Street, Suite 13–201, Denver, CO 80294. Letters can also be sent via email to *mcraft@usccr.gov.*

Send letters of interest for the Alaska Advisory Committee to: U.S. Commission on Civil Rights, Western Regional Office, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. Letter can also be sent via email to *atrevino@usccr.gov.*

Send letters of interest for the Wyoming Advisory Committee to: U.S. Commission on Civil Rights, Rocky Mountain Regional Office, Byron Rogers Federal Office Building, 1961 Stout Street, Suite 13–201, Denver, CO 80294. Letters can also be sent via email to *mcraft@usccr.gov.*

Send letters of interest for the Indiana Advisory Committee to: U.S. Commission on Civil Rights, Midwestern Regional Office, 55 W. Monroe St., Suite 410, Chicago, IL 60603. Letters can also be sent via email to *mwojnaroski@usccr.gov.*

FOR FURTHER INFORMATION CONTACT: David Mussatt, Chief, Regional Programs Unit, 55 W. Monroe St., Suite 410, Chicago, IL 60603, (312) 353–8311. Questions can also be directed via email to *dmussatt@usccr.gov.*

SUPPLEMENTARY INFORMATION: The Montana, New Mexico, Alaska, Wyoming, and Indiana Advisory Committees are statutorily mandated federal advisory committees of the U.S. Commission on Civil Rights pursuant to 42 U.S.C. 1975a. Under the charter for the advisory committees, the purpose is to provide advice and recommendations to the U.S. Commission on Civil Rights (Commission) on a broad range of civil rights matters in its respective state that pertain to alleged deprivations of voting rights or discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or the administration of justice. Advisory committees also provide assistance to the Commission in its statutory obligation to serve as a national clearinghouse for civil rights information.

Each advisory committee consists of not more than 19 members, each of whom will serve a four-year term. Members serve as unpaid Special Government Employees who are reimbursed for travel and expenses. To be eligible to be on an advisory committee, applicants must be residents of the respective state or district, and have demonstrated expertise or interest in civil rights issues.

The Commission is an independent, bipartisan agency established by Congress in 1957 to focus on matters of race, color, religion, sex, age, disability, or national origin. Its mandate is to:

- Investigate complaints from citizens that their voting rights are being deprived,
- study and collect information about discrimination or denials of equal protection under the law,
- appraise federal civil rights laws and policies,
- serve as a national clearinghouse on discrimination laws,
- submit reports and findings and recommendations to the President and the Congress, and
- issue public service announcements to discourage discrimination.

The Commission invites any individual who is eligible to be appointed a member of the Montana, New Mexico, Alaska, Wyoming, or Indiana Advisory Committee covered by this notice to send a letter of interest and a resume to the respective address above.

Dated: September 7, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–21842 Filed 9–9–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–34–2016]

Foreign-Trade Zone (FTZ) 121—Albany, New York, Authorization of Production Activity, Townsend Leather Company, Inc., (Finished Upholstery Grade Leather, Cut Parts and Product Samples), Johnstown, New York

On May 9, 2016, the Capital District Regional Planning Commission, grantee of FTZ 121, submitted a notification of proposed production activity to the FTZ Board on behalf of Townsend Leather Company, Inc., within Site 7 of FTZ 121, in Johnstown, New York.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 30517, May 17, 2016). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: September 6, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–21860 Filed 9–9–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") is conducting the sixth administrative review of the antidumping duty order on certain steel nails ("nails") from the People's Republic of China ("PRC"). The Department preliminarily determines that Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively "Stanley") sold subject merchandise in the United States at prices below normal value ("NV") during the period of review ("POR"), August 1, 2014, through July 31, 2015. The Department also preliminarily determines that Tianjin Lianda Group Co., Ltd. ("Tianjin Lianda") failed to demonstrate that it is entitled to a separate rate and has been treated as part of the PRC-wide entity. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Effective September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Susan Pulongbarit or Omar Qureshi, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4031 or (202) 482–5307, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 2015, the Department initiated the seventh administrative review of the antidumping duty order on nails from the PRC for the period August 1, 2014, through July 31, 2014.[1] On April 14, 2015, the Department partially extended the deadline for issuing the preliminary results by 90 days.[2] On August 4, 2016, the Department fully extended the deadline for issuing the preliminary results by 30 days, to September 5, 2016.[3]

Scope of the Order

The merchandise covered by the order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails subject to the order are currently classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 7317.00.55, 7317.00.65, 7317.00.75, and 7907.00.6000.[4] While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[5]

Preliminary Determination of No Shipments

Based on the no-shipments letters filed by 11 companies subject to this review, the Department preliminarily determines that these companies did not have any reviewable transactions during the POR. For additional information regarding this determination, including a list of these companies, *see* the Preliminary Decision Memorandum. Consistent with our assessment practice in non-market economy ("NME") cases, the Department is not rescinding this review for these companies, but intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.[6]

Separate Rates

The Department preliminarily determines that information placed on the record by the mandatory respondent Stanley, as well as by the 21 other separate rate applicants,[7] demonstrates that these companies are entitled to separate rate status. For additional information, *see* the Preliminary Decision Memorandum.

PRC-Wide Entity

The Department's policy regarding conditional review of the PRC-wide entity applies to this administrative review.[8] Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change (*i.e.*, 118.04 percent).[9] Aside from the no shipments and separate rate companies discussed above, the Department considers all other companies for which a review was requested,[10] as well as Tianjin Lianda, to be part of the PRC-wide entity. For additional information, *see* the Preliminary Decision Memorandum; *see also* Appendix 2 for a list of companies considered as part of the PRC-wide entity.

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[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 58729 (September 30, 2014) ("*Initiation Notice*").

[2] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Omar Qureshi, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations, regarding "Certain Steel Nails from the People's Republic of China: Extension of Deadline for Preliminary Results of 2014–2015 Antidumping Duty Administrative Review," dated April 14, 2016.

[3] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Omar Qureshi, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations, regarding "Certain Steel Nails from the People's Republic of China: Second Extension of Deadline for Preliminary Results of 2014–2015 Antidumping Duty Administrative Review," dated August 4, 2016.

[4] The Department recently added the Harmonized Tariff Schedule category 7907.00.6000, "Other articles of zinc: Other," to the language of the *Order. See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, Antidumping and Countervailing Duty Operations, regarding "Certain Steel Nails from the People's Republic of China: Cobra Anchors Co. Ltd. Final Scope Ruling," dated September 19, 2013.

[5] *See* "Certain Steel Nails from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2013–2014 Antidumping Duty Administrative Review," ("Preliminary Decision Memorandum"), dated concurrently with these results and hereby adopted by this notice, for a complete description of the Scope of the *Order.*

[6] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the "Assessment Rates" section, below.

[7] We note that Mingguang Ruifeng Hardware Products Co., Ltd. and Mingguang Abundant Hardware Products Co., Ltd. are one company.

[8] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[9] *See, e.g., id.; Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 18816, 18817 and accompanying Issues and Decision Memorandum ("*AR5 Final Results*").

[10] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 51548, 51549 (August 29, 2014) ("All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification . . .").

Rate for Separate-Rate Companies Not Individually Examined

The statute and the Department's regulations do not address the establishment of a rate to be applied to respondents not selected for individual examination when the Department limits its examination of companies subject to the administrative review pursuant to section 777A(c)(2)(B) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents not individually examined in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference for not calculating an all-others rate using rates which are zero, *de minimis* or based entirely on facts available. Accordingly, the Department's usual practice has been to determine the dumping margin for companies not individually examined by averaging the weighted-average dumping margins for the individually examined respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available.[11] Consistent with this practice, in this review, we calculated a weighted-average dumping margin for Stanley that is above *de minimis* and not based entirely on FA; therefore, the Department assigned to the companies not individually examined, but which demonstrated their eligibility for a separate rate, the weighted-average dumping margin calculated for Stanley.

Methodology

The Department is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Act. Constructed export prices and export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a non-market economy country within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2014, through July 31, 2015:

Exporter	Weighted-average margin (percent)
Stanley	5.90
Certified Products International Inc	5.90
Chiieh Yung Metal Ind. Corp[12]	5.90
Dezhou Hualude Hardware Products Co., Ltd	5.90
Hebei Cangzhou New Century Foreign Trade Co., Ltd	5.90
Mingguang Abundant Hardware Products Co., Ltd	5.90
Mingguang Ruifeng Hardware Products Co., Ltd	5.90
Nanjing Caiqing Hardware Co., Ltd	5.90
Qingdao D&L Group Ltd	5.90
SDC International Aust. PTY. Ltd	5.90
Shandong Dinglong Import & Export Co., Ltd	5.90
Shandong Oriental Cherry Hardware Group Co., Ltd	5.90
Shanghai Curvet Hardware Products Co., Ltd	5.90
Shanghai Yueda Nails Industry Co., Ltd	5.90
Shanxi Hairui Trade Co., Ltd	5.90
Shanxi Pioneer Hardware Industrial Co., Ltd	5.90
Shanxi Tianli Industries Co., Ltd	5.90
S-Mart (Tianjin) Technology Development Co., Ltd	5.90
Suntec Industries Co., Ltd	5.90
Tianjin Jinchi Metal Products Co., Ltd	5.90
Tianjin Jinghai County Hongli Industry & Business Co., Ltd	5.90
Tianjin Universal Machinery Imp. & Exp. Corporation[13]	5.90

Disclosure, Public Comment and Opportunity To Request a Hearing

The Department intends to disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the **Federal Register.**[14] Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.[15] Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.[16] Parties submitting briefs should do so pursuant to the Department's electronic filing system, ACCESS.[17]

Any interested party may request a hearing within 30 days of publication of this notice.[18] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[19]

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[20] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

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[11] *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

[12] Although, the Department initiated this administrative review on Chiieh Yung Metal Industrial Corporation, the company name, Chiieh Yung Metal Ind. Corp., was the only name listed in the business license that was submitted in the separate rate application. Accordingly, the Department is granting a separate rate to Chiieh Yung Metal Ind. Corp.

[13] Although, the Department initiated this administrative review on Tianjin Universal Machinery Import and Export Corp., the company name, Tianjin Universal Machinery Imp. & Exp. Corporation. was the only name listed in the business license that was submitted in the separate rate application. Accordingly, the Department is granting a separate rate to Tianjin Universal Machinery Imp. & Exp. Corporation.

[14] *See* 19 CFR 351.309(c)(1)(ii).

[15] *See* 19 CFR 351.309(d)(1)–(2).

[16] *See* 19 CFR 351.309(c)(2), (d)(2).

[17] *See* 19 CFR 351.303 (for general filing requirements).

[18] *See* 19 CFR 351.310(c).

[19] *See* 19 CFR 351.310(d).

[20] *See* 19 CFR 351.212(b).

For assessment purposes, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*.[21] For any individually examined respondent whose weighted average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[22] Where either a respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[23] For the respondents that were not selected for individual examination in this administrative review and that qualified for a separate rate, the assessment rate will be based on the average of the mandatory respondents.[24] We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

Pursuant to the Department's practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during the administrative review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[25]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This preliminary determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: September 1, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix 1

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Preliminary Determination of No Shipments
5. Non-Market Economy Country Status
6. PRC-Wide Entity
7. Separate Rates
8. Application of Facts Available and Use of Adverse Inference
9. Facts Available
10. Surrogate Country
11. Date of Sale
12. Comparisons to Normal Value
13. U.S. Price
14. Normal Value
15. Factor Valuations
16. Currency Conversion
17. Recommendation

Appendix 2

Companies Subject to This Administrative Review That Are Considered To Be Part of the PRC-Wide Entity

Cana (Tianjin) Hardware Industrial Co., Ltd.
China Staple Enterprise (Tianjin) Co., Ltd.
Huanghu Jinhai Hardware Products Co. Ltd.
Huanghua Xiong Hua Hardware Product Co., Ltd.
Huanghua Yufutai Hardware Products Limited
Liaocheng Minghui Hardware Products Co., Ltd.
Mingguang Abundant Hardware Products Co., Ltd.
Qingdao D&L Group Co., Ltd.
Shandong Qingyun Hongyi Hardware Products Co., Ltd.
Shanghai Yueda Fasteners Co., Ltd.
Shanxi Tianli Enterprise Co., Ltd.
Smart (Tianjin) Technology Development Co., Ltd.
Tianjin Hongli Qiangsheng Import and Export Co., Ltd.
Tianjin Lianda Group Ltd.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 11, 2016, the Department of Commerce (the Department) published the preliminary results of the administrative review and new shipper review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea). Based on our analysis of the comments received, we continue to find that subject merchandise has been sold at less than normal value in the administrative review, and that subject

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[21] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) in the manner described in more detail in the Preliminary Decision Memorandum.

[22] *See* 19 CFR 351.212(b)(1).

[23] *See* 19 CFR 351.106(c)(2).

[24] *See* Preliminary Decision Memorandum.

[25] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

merchandise has not been sold at less than normal value in the new shipper review.

DATES: Effective September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5760 or (202) 482–0410, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 11, 2016, the Department published the *Preliminary Results* of the administrative review and new shipper review.[1] The period of review is February 1, 2014, through January 31, 2015. We invited interested parties to comment on the *Preliminary Results* and received case and rebuttal briefs from interested parties.[2]

The Department conducted these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the antidumping duty order are certain CTL plate. Imports of CTL plate are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.53.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00, 7225.40.30.50, 7225.40.70.00, 7225.50.60.00, 7225.99.00.90, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[3]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these reviews are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

Changes Since the Preliminary Results

Based on our analysis of comments received, we made one revision that has not changed the results for Dongkuk Steel Mill Co., Ltd., in the administrative review.[4] We made no changes for Hyundai Steel Company in the new shipper review.

Final Results of the Administrative Review

As a result of this administrative review, we determine that a weighted-average dumping margin of 1.11 percent exists for Dongkuk Steel Mill Co., Ltd., for the period February 1, 2014, through January 31, 2015.

Final Results of the New Shipper Review

As a result of this new shipper review, we determine that a weighted-average dumping margin of 0.00 percent exists for merchandise produced and exported by Hyundai Steel Company for the period February 1, 2014, through January 31, 2015.

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the final results in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of these reviews.

For Dongkuk Steel Mill Co., Ltd., we calculated importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[5] For Hyundai Steel Company, we have not calculated assessment rates and will instruct CBP to liquidate all imports produced and exported by Hyundai Steel Company without regard to antidumping duties in accordance with the *Final Modification*.[6]

For entries of subject merchandise during the period of review produced by Dongkuk Steel Mill Co., Ltd., or Hyundai Steel Company for which they did not know their merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[7]

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of these reviews.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice for all shipments of CTL plate from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Dongkuk Steel Mill Co., Ltd. will be equal to the weighted-average dumping margin determined in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the

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[1] *See Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews and Rescission of Administrative Review, in Part; 2014–2015,* 81 FR 12870 (March 11, 2016) (*Preliminary Results*).

[2] *See* the case and rebuttal briefs from Nucor Corporation, Dongkuk Steel Mill Co., Ltd., and Hyundai Steel Company dated April 11, 2016, and April 20, 2016, respectively.

[3] *See* the Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Issues and Decision Memorandum for the Antidumping Duty Administrative Review and New Shipper Review of Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea," dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[4] *See* Issues and Decision Memorandum at Comment 5.

[5] In these final results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification*).

[6] *See Final Modification,* 77 FR at 8103.

[7] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this administrative review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 0.98 percent,[8] the all-others rate determined in the less-than-fair-value (LTFV) investigation, adjusted for the export-subsidy rate in the companion countervailing duty investigation.

With respect to Hyundai Steel Company, the respondent in the new shipper review, the Department established a combination cash deposit rate for this company consistent with its practice, as follows: (1) For subject merchandise produced and exported by Hyundai Steel Company, no cash deposit will be required; (2) for subject merchandise exported by Hyundai Steel Company, but not produced by Hyundai Steel Company, the cash deposit rate will be the all-others rate determined in the LTFV investigation; and (3) for subject merchandise produced by Hyundai Steel Company, but not exported by Hyundai Steel Company, the cash deposit rate will be the rate applicable to the exporter.

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these final results of administrative and new shipper reviews in accordance with sections 751(a)(1), 751(a)(2)(B)(iii), 751(a)(3) and 777(i)(1) of the Act and 19 CFR 351.213(h), 351.214 and 351.221(b)(5).

Dated: September 6, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Summary
Background
Scope of the Order
Discussion of the Issues
  Comment 1: Recalculation of Conversion Costs (New Shipper Review)
  Comment 2: Reported Costs (New Shipper Review)
  Comment 3: Finished Goods Inventory (New Shipper Review)
  Comment 4: Scrap Offset (New Shipper Review)
  Comment 5: Major Input Adjustment (Administrative Review)
Recommendation

[FR Doc. 2016–21857 Filed 9–9–16; 8:45 am]

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[8] *See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 22971, 22972 (April 24, 2015).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–842]

Large Residential Washers From Mexico: Final Results of the Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 11, 2016, the Department of Commerce (the Department) published the preliminary results of the second administrative review of the antidumping duty (AD) order on large residential washers (LRWs) from Mexico. The review covers one producer/exporter of the subject merchandise: Electrolux Home Products Corp. N.V. and Electrolux Home Products de Mexico, S.A. de C.V. (collectively, Electrolux). We gave interested parties an opportunity to comment. After reviewing the comments received, we continue to find that Electrolux made sales of subject merchandise to the United States at prices below normal value. Electrolux's final dumping margin is listed below in the section entitled "Final Results of the Review."

DATES: Effective September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Brandon Custard, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1823, respectively.

SUPPLEMENTARY INFORMATION:

Background

The review covers one producer/exporter of the subject merchandise: Electrolux. On March 11, 2016, the Department published the *Preliminary Results.*[1] Based on our analysis of the comments received from Whirlpool Corporation (the petitioner) and Electrolux, we are not changing the weighted-average dumping margin calculated for Electrolux in the *Preliminary Results.* The Department conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the order are all large residential washers and certain subassemblies thereof from Mexico. The products are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this order may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.[2]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as Appendix I.

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[1] *See Large Residential Washers From Mexico: Preliminary Results of the Antidumping Duty Administrative Review; 2014–2015,* 81 FR 12873 (March 11, 2016) (*Preliminary Results*).

[2] A full description of the scope of the order is contained in the Memorandum to Paul Piquado, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Large Residential Washers from Mexico," dated concurrently with this notice (Issues and Decision Memorandum).

Period of Review

The period of review is February 1, 2014, through January 31, 2015.

Final Results of the Review

Based on our analysis of the comments received, we did not make any changes to the weighted-average dumping margin calculated for Electrolux in the *Preliminary Results.* Therefore, we are assigning the following weighted-average dumping margin for the period February 1, 2014, through January 31, 2015:

Manufacturer/exporter	Weighted-average dumping margin (percent)
Electrolux Home Products Corp. NV/Electrolux Home Products de Mexico, S.A. de C.V	2.47

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), the Department has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 41 days after publication of the final results of this administrative review.

For Electrolux, the Department calculated *ad valorem* importer-specific assessment rates equal to the total amount of dumping calculated for the importer's examined sales and the total entered value of those sales. Where an importer-specific assessment rate is zero or *de minimis* (*i.e.,* less than 0.5 percent), the Department will instruct CBP to liquidate these entries without regard to antidumping duties pursuant to 19 CFR 351.106(c)(2).

If applicable, this clarification will apply to entries of subject merchandise during the POR produced by Electrolux, for which the company did not know that its merchandise was destined for the United States.[3] In such instances, we will instruct CBP to liquidate these entries at the all-others rate established in the less-than fair-value (LTFV) investigation, 36.52 percent,[4] if there is no rate for the intermediary involved in the transaction.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Electrolux will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 36.52 percent, the all-others rate determined in the LTFV investigation.[5] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5) of the Department's regulations.

Dated: August 30, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Margin Calculations
IV. Scope of the Order
V. Discussion of Issues
  1. Zeroing
  2. Methodological Issues in the Differential Pricing Analysis
VI. Recommendation

[FR Doc. 2016–21500 Filed 9–9–16; 8:45 a.m.]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–868]

Large Residential Washers From the Republic of Korea: Final Results of the Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 11, 2016, the Department of Commerce (the Department) published the preliminary results of the second administrative review of the antidumping duty (AD) order on large residential washers (LRWs) from Korea. The review covers one producer/exporter of the subject merchandise: LG Electronics, Inc. (LGE). We gave interested parties an opportunity to comment. After reviewing the comments received, we continue to find that LGE made sales of subject merchandise to the United States at prices below normal value. LGE's final dumping margin is listed below in the section entitled "Final Results of the Review."

DATES: Effective September 12, 2016.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Ross Belliveau, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration,

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[3] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

[4] *See Large Residential Washers From Mexico and the Republic of Korea: Antidumping Duty Orders,* 78 FR 11148 (February 15, 2013) (*AD Order*).

[5] *Id.*

U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–4952, respectively.

SUPPLEMENTARY INFORMATION:

Background

The review covers one producer/exporter of the subject merchandise: LGE. On March 11, 2016, the Department published the *Preliminary Results*.[1] Based on our analysis of the comments received from Whirlpool Corporation (the petitioner) and LGE, we are changing the weighted-average dumping margin calculated for LGE in the *Preliminary Results*. The Department conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the order are all large residential washers and certain subassemblies thereof from Korea. The products are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this order may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.[2]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as Appendix I.

Period of Review

The period of review is February 1, 2014, through January 31, 2015.

Final Results of the Review

Based on our analysis of the comments received, we made changes to the weighted-average dumping margin calculated for LGE in the *Preliminary Results*. Therefore, we are assigning the following weighted-average dumping margin for the period February 1, 2014, through January 31, 2015:

Manufacturer/exporter	Weighted-average dumping margin (percent)
LG Electronics, Inc	1.62

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), the Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

For LGE, the Department calculated *ad valorem* importer-specific assessment rates equal to the total amount of dumping calculated for the importer's examined sales and the total entered value of those sales. Where an importer-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.5 percent), the Department will instruct CBP to liquidate these entries without regard to antidumping duties pursuant to 19 CFR 351.106(c)(2).

For entries of subject merchandise during the POR produced by LGE, for which the company did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate these entries at the all-others rate established in the less-than fair-value (LTFV) investigation, 11.80 percent,[3] if there is no rate for the intermediary involved in the transaction.[4]

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for LGE will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.80 percent, the all-others rate determined in the LTFV investigation.[5] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751(a)(1) and 777(i)(1) of the Act.

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[1] *See Large Residential Washers From the Republic of Korea: Preliminary Results of the Antidumping Duty Administrative Review; 2014–2015*, 81 FR 12875 (March 11, 2016) (*Preliminary Results*).

[2] A full description of the scope of the order is contained in the memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Large Residential Washers from the Republic of Korea," dated concurrently with and adopted by this notice (Issues and Decision Memorandum).

[3] *See Large Residential Washers From Mexico and the Republic of Korea: Antidumping Duty Orders*, 78 FR 11148 (February 15, 2013) (*AD Order*).

[4] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

[5] *See Assessment Policy Notice.*

Dated: September 6, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Margin Calculations
IV. Scope of the Order
V. Discussion of the Issues
  1. Exclusion of Sales of Merchandise Entered Prior to Date of Suspension
  2. Whether Defective Merchandise Is Outside of the Scope
  3. Exclusion of Re-Sales of Defective Merchandise
  4. Exclusion of Potentially Double-Counted U.S. Sales
  5. Methodological Issues in the Differential Pricing Analysis
  6. Zeroing
  7. Subassembly Import Value in Assessment Rate
VI. Recommendation

[FR Doc. 2016–21858 Filed 9–9–16; 8:45 a.m.]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–802]

Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 10, 2016, the Department of Commerce (''Department'') published in the **Federal Register** the preliminary results of the tenth administrative review of the antidumping duty order on certain warmwater shrimp from the Socialist Republic of Vietnam (''Vietnam''). Based upon our analysis of the comments and information received, we determine that Stapimex sold subject merchandise at less than normal value (''NV'') during the period of review (''POR''), February 1, 2014, through January 31, 2015.

DATES: Effective September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6905.

SUPPLEMENTARY INFORMATION: On March 10, 2016, the Department published the *Preliminary Results.*[1] On March 11, 2016, VASEP[2] filed surrogate value information rebutting certain surrogate values we applied in the *Preliminary Results.* We gave interested parties an opportunity to comment on the *Preliminary Results.* On March 11, 2016, Viet Hai Seafood Co., Ltd. (''Fish One'') requested a public hearing and filed its case brief on April 1, 2016. On April 25, 2016, VASEP filed a case brief. On May 2, 2016, Petitioner[3] and Domestic Processors[4] filed their rebuttal briefs. On June 17, 2016, the Department extended the time limit for these final results by 60 days.

On July 6, 2016, VASEP, Petitioner, and Domestic Processors withdrew their requests for review with respect to the Minh Phu Group and requested that the Department exercise its authority to extend the 90-day deadline to withdraw the requests for review and rescind the administrative review, in part, under extraordinary circumstances.[5] On July 18, 2016, we determined that the parties demonstrated that extraordinary circumstances exist for this segment of the proceeding and, thus, found that good cause existed to extend the deadline to withdraw their respective review requests of the Minh Phu Group, pursuant to 19 CFR 351.302(b). We rescinded the review with respect to the Minh Phu Group on July 22, 2016.[6]

Scope of the Order[7]

The merchandise subject to the order is certain frozen warmwater shrimp. The product is currently classified under the following Harmonized Tariff Schedule of the United States item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. The written description of the scope of the order is dispositive. A full description of the scope of the *Order* is available in the accompanying Issues and Decision Memorandum.[8]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the accompanying Issues and Decision Memorandum.[9] A list of the issues which parties raised, and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Determination of No Shipments

In the *Preliminary Results,* the Department determined the following companies did not have any reviewable transactions during the POR: (1) BIM Seafood Joint Stock Company; (2) Bien Dong Seafood Co., Ltd.; (3) Cafatex Fishery Joint Stock Corporation; (4) Camranh Seafoods Processing Enterprise Pte.; (5) Coastal Fisheries Development Corporation; (6) Bentre Forestry Aquaproduct Import-Export Joint Stock Company; (7) Fine Foods Co.; (8) Gallant Ocean (Vietnam) Co., Ltd.; (9) Long Toan Frozen Aquatic Products Joint Stock Company; (10) Nhat Duc Co., Ltd.; (11) Ngo Bros Seaproducts Import-Export One Member Company Limited; (12) Thong Thuan Seafood Company Limited; (13) Tacvan Seafoods Company; (14) Tan Phong Phu Seafood Co., Ltd.; and (15) Vinh Hoan Corporation. As we have not received any information to contradict this determination, the Department determines that the above-named companies did not have any reviewable entries of subject merchandise during the POR, and will issue appropriate instructions that are consistent with our "automatic assessment" clarification, for these final results.

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[1] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review; 2014–2015,* 81 FR 12702 (March 10, 2016) (''*Preliminary Results*'').

[2] Vietnam Association of Seafood Exporters and Producers (''VASEP'').

[3] Ad Hoc Shrimp Trade Action Committee (''Petitioner'').

[4] American Shrimp Processors Association (''Domestic Processors'').

[5] *See* Withdrawal of Review Requests from VASEP, Petitioner and Domestic Processors, dated July 6, 2016.

[6] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Partial Rescission of Antidumping Duty Administrative Reviews (2014–2015; 2015–2016) and Compromise of Outstanding Claims,* 81 FR 47758 (July 22, 2016).

[7] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam,* 70 FR 5152 (February 1, 2005) (''*Order*'').

[8] *See* Memorandum to Christian Marsh, Acting Assistant Secretary for Enforcement and Compliance, From Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results, (''Issues and Decision Memorandum'') dated concurrently and hereby adopted by this notice.

[9] *Id.*

Changes Since the Preliminary Results

The Department has made two changes since the *Preliminary Results,* specific to the granting of a separate rate and the calculation of the separate rate margin. For detailed information, *see* below and the Issues and Decision Memorandum.

Separate Rates

In the *Preliminary Results,* we determined that 30 companies[10] ("Separate Rate Respondents") in addition to Minh Phu Group and Stapimex[11] met the criteria for separate rate status. We have since rescinded the administrative review for the Minh Phu Group.[12] We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsidering our preliminary separate rate determinations for the remaining 30 companies and the remaining mandatory respondent. However, we have granted separate rate status to one additional applicant that provided evidence of its separate rate eligibility. Thus, for the final results, we have granted this company, Viet Hai Seafood Co., Ltd., a separate rate.

Rate for Non-Selected Companies

Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely on the basis of facts available. Accordingly, when only one weighted-average dumping margin for an individually investigated respondent is above *de minimis* and not based entirely on facts available, the separate rate will be equal to that single, above *de minimis* rate.

In the *Preliminary Results,* the Department calculated a rate for Stapimex that is not zero, *de minimis,* or based entirely on facts available, which is unchanged in the final results. As noted above, we have rescinded the administrative review with respect to the other mandatory respondent. Therefore, the Department has assigned to the companies that have not been individually examined but have demonstrated their eligibility for a separate rate a margin of 4.78 percent, which is the rate calculated for Stapimex.

Final Results of Review

In the *Preliminary Results,* we found that 51 companies (now 50) for which a review was requested have not established eligibility for a separate rate, and thus, we considered them to be part of the Vietnam-wide entity.[13] The Department's change in policy regarding conditional review of the Vietnam-wide entity applies to this administrative review.[14] Under this policy, the Vietnam-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity, the entity is not under review and the entity's rate is not subject to change. For companies for which a review was requested and that have established eligibility for a separate rate, the Department determines that the following weighted-average dumping margins exist:

Exporter[15]	Weighted-average margin (percent)
Soc Trang Seafood Joint Stock Company, aka Stapimex	4.78
Bac Lieu Fisheries Joint Stock Company	4.78
C.P. Vietnam Corporation	4.78
Cadovimex Seafood Import-Export and Processing Joint Stock Company	4.78
Camau Frozen Seafood Processing Import Export Corporation, aka Camau Seafood Factory No. 4	4.78
Can Tho Import Export Fishery Limited Company	4.78
Camau Seafood Processing and Service Joint Stock Corporation	4.78
Cuulong Seaproducts Company	4.78
Gallant Dachan Seafood Co., Ltd	4.78
Green Farms Seafood Joint Stock Company	4.78
Hai Viet Corporation	4.78
Investment Commerce Fisheries Corporation	4.78
Kim Anh Company Limited, aka Kim Anh Co., Ltd	4.78
Minh Hai Export Frozen Seafood Processing Joint-Stock Company	4.78
Minh Hai Joint-Stock Seafoods Processing Company	4.78
Nha Trang Fisheries Joint Stock Company	4.78
Nha Trang Seafoods Group: Nha Trang Seaproduct Company, aka NT Seafoods Corporation, aka Nha Trang Seafoods—F89 Joint Stock Company, aka NTSF Seafoods Joint Stock Company	4.78
Ngoc Tri Seafood Joint Stock Company	4.78
Phuong Nam Foodstuff Corp	4.78
Quang Minh Seafood Co., Ltd	4.78
Quoc Viet Seaproducts Processing Trading and Import-Export Co., Ltd	4.78
Sao Ta Foods Joint Stock Company, aka Fimex VN, aka Saota Seafood Factory	4.78
Seaprimexco Vietnam	4.78
Taika Seafood Corporation	4.78

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[10] *See* Issues and Decision Memorandum at Appendix I.

[11] Soc Trang Seafood Joint Stock Company ("Stapimex").

[12] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Partial Rescission of Antidumping Duty Administrative Reviews (2014–2015; 2015–2016) and Compromise of Outstanding Claims,* 81 FR 47758 (July 22, 2016).

[13] *See Preliminary Results,* 80 FR 12442 and Appendix II for a full list of the 56 companies; *see also* Preliminary Decision Memorandum, at 9–10.

[14] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[15] Due to the issues we have had in the past with variations of exporter names related to this *Order,* we remind exporters that the names listed below are the exact names, including spelling and punctuation which the Department will provide to CBP and which CBP will use to assess POR entries and collect cash deposits.

Exporter[15]	Weighted-average margin (percent)
Thong Thuan Company Limited, aka T&T Co., Ltd	4.78
Thuan Phuoc Seafoods and Trading Corporation	4.78
Trong Nhan Seafood Company Limited	4.78
UTXI Aquatic Products Processing Corporation, aka Hoang Phuong Seafood Factory, aka, Hoang Phong Seafood Factory	4.78
Viet Foods Co., Ltd	4.78
Viet Hai Seafood Co., Ltd., aka Vietnam Fish One Co., Ltd	4.78
Vietnam Clean Seafood Corporation	4.78
Viet I-Mei Frozen Foods Co., Ltd	4.78

Disclosure and Public Comment

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales. Where we do not have entered values for all U.S. sales to a particular importer/customer, we calculate a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to that importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).[16] To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer- (or customer-) specific *ad valorem* ratios based on the estimated entered value. Where either a respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[17]

Additionally, consistent with its assessment practice in non-market economy (NME) cases, if the Department continues to determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate.[18]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above, which have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the Vietnam-wide entity; and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: September 6, 2016.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

I. Summary
II. Background
III. Partial Rescission of Administrative Review
IV. Scope of the Order
V. Discussion of the Issues
  General Issues
  Comment 1: Differential Pricing
  Comment 2: Treatment of Frozen Shrimp Purchases
  A. Treatment of Frozen Shrimp Versus Fresh Shrimp
  B. Frozen Shrimp Surrogate Value
  Surrogate Value Issues

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[16] *See* 19 CFR 351.212(b)(1).

[17] *See* 19 CFR 352.106(c)(2); *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012) (''*Final Modification for Reviews*'').

[18] For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

Comment 3: Bangladeshi Inflator Data
Comment 4: Ice Surrogate Value
Comment 5: Byproduct Surrogate Value
Comment 6: Electricity

Company-Specific Issues

Comment 7: Calculation of the Separate Rate Margin
Comment 8: Treatment of Packing Materials as Byproducts
Comment 9: Separate Rate Status for Fish One
Comment 10: Separate Rate Status for MC Seafood
Comment 11: Separate Rate Status for Seaprodex Danang
Comment 12: Separate Rate Status for Additional Trade Names
A. Thuan Phuoc Seafoods and Trading Corporation
B. Sao Ta Seafood Joint Stock Company
C. Vietnam Clean Seafood Corporation
D. C.P. Vietnam Corporation

Recommendation

Appendix II

Companies Subject to Review Determined To Be Part of the Vietnam-Wide Entity

1. Amanda Foods (Vietnam) Ltd. Ngoc Tri Seafood Company (Amanda's affiliate)
2. Amanda Seafood Co., Ltd.
3. An Giang Coffee JSC
4. Anvifish Joint Stock Co.
5. Asia Food Stuffs Import Export Co., Ltd.
6. B.O.P. Limited Co.
7. Binh An Seafood Joint Stock Company
8. Can Tho Agricultural and Animal Product Import Export Company ("CATACO")
   Can Tho Agricultural and Animal Products Imex Company
   Can Tho Agricultural and Animal Products Import Export Company ("CATACO")
   Can Tho Agricultural Products
   Can Tho Agricultural Products
9. Can Tho Import Export Seafood Joint Stock Company (CASEAMEX)
10. Cau Tre Enterprise (C. T. E.)
11. Cautre Export Goods Processing Joint Stock Company
12. CL Fish Co., Ltd. (Cuu Long Fish Company)
13. Danang Seaproducts Import Export Corporation ("Seaprodex Danang")
    Danang Seaproducts Import-Export Corporation ("Seaprodex Danang") (and its affiliates)
    Danang Seaproducts Import-Export Corporation (and its affiliate, Tho Quang Seafood Processing and Export Company) (collectively "Seaprodex Danang")
    Seaprodex Danang
    Tho Quang Co.
    Tho Quang Seafood Processing and Export Company
    Frozen Seafoods Factory No. 32 (Tho Quang Seafood Processing and Export Company)
14. D&N Foods Processing (Danang Company Ltd.)
15. Duy Dai Corporation
16. Gallant Ocean (Quang Ngai) Co., Ltd.
17. Gn Foods
18. Hai Thanh Food Company Ltd.
19. Hai Vuong Co., Ltd.
20. Han An Trading Service Co., Ltd.
21. Hoang Hai Company Ltd.
22. Hua Heong Food Industries Vietnam Co. Ltd.
23. Huynh Huong Seafood Processing (Huynh Houng Trading and Import Export Joint Stock Company)
24. Interfood Shareholding Co.
25. Khanh Loi Seafood Factory
26. Kien Long Seafoods Co. Ltd.
27. Luan Vo Fishery Co., Ltd.
28. Minh Chau Imp. Exp. Seafood Processing Co., Ltd.
29. Minh Cuong Seafood Import Export Frozen Processing Joint Stock Company ("Minh Cuong Seafood")
30. Mp Consol Co., Ltd.
31. Ngoc Chau Co., Ltd. and/or Ngoc Chau Seafood Processing Company
32. Ngoc Sinh
    Ngoc Sinh Fisheries
    Ngoc Sinh Private Enterprises
    Ngoc Sinh Seafood Processing Company
    Ngoc Sinh Seafood Trading & Processing Enterprise
    Ngoc Sinh Seafoods
33. Phu Cuong Jostoco Corp.
    Phu Cuong Jostoco Seafood Corporation
34. Quang Ninh Export Aquatic Products Processing Factory
35. Quang Ninh Seaproducts Factory
36. Quoc Ai Seafood Processing Import Export Co., Ltd.
37. S.R.V. Freight Services Co., Ltd.
38. Sustainable Seafood
39. Tan Thanh Loi Frozen Food Co., Ltd.
40. Thanh Doan Seaproducts Import & Export Processing Joint-Stock Company (THADIMEXCO)
41. Thanh Hung Frozen Seafood Processing Import Export Co., Ltd.
42. Thanh Tri Seafood Processing Co. Ltd.
43. Thinh Hung Co., Ltd.
44. Tien Tien Garment Joint Stock Company
45. Tithi Co., Ltd.
46. Trang Khan Seafood Co., Ltd.
47. Viet Cuong Seafood Processing Import Export Joint-Stock Company
48. Vietnam Northern Viking Technologies Co. Ltd.
49. Vinatex Danang
50. Vinh Loi Import Export Company ("VIMEX")
    Vinh Loi Import Export Company ("Vimexco")

[FR Doc. 2016–21882 Filed 9–9–16; 8:45 a.m.]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("the Department") has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: Effective September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review ("POR"), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended ("the Act"). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

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[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be "collapsed" (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value ("Q&V") Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the "Instructions for Filing the Certification" in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding[2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

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[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than July 31, 2017.

	Period to be reviewed
Antidumping Duty Proceedings	
India: Polyethylene Terephthalate (Pet) Film, A–533–824	7/1/15–6/30/16
Ester Industries Limited	
Garware Polyester Ltd.	
Jindal Poly Films Limited of India	
Jindal Poly Films Ltd. (India)	
MTZ Polyesters Ltd.	
Polyplex Corporation Ltd.	
SRF Limited	
Uflex Ltd.	
Vacmet	
Vacmet India Limited	
Italy: Certain Pasta, A–475–818	7/1/15–6/30/16
Delverde Industrie Alimentari S.p.A.	
Ghigi Industria Agroalimentare in San Clemente S.r.L.	
GR.A.M.M. S.r.l.	
Industria Alimentare Colavita, S.p.A	
La Fabbrica Della Pasta di Gragnano S.A.S di Antonio Moccia	
Liguori Pastificio dal 1820 S.p.A.	
Pastificio Andalini S.p.A.	
Pastificio Felicetti S.r.L.	
Pastificio Labor S.r.L.	
Pastificio Zaffiri S.r.l.	
Premiato Pastificio Afeltra S.r.l.	
Rustichella d'Abruzzo SpA	
Tamma Industrie Alimentari de Capitanata S.r.L.	
Tesa SrL	
Malaysia: Steel Nails, A–557–816	12/29/14–6/30/16
Apex Container Line (M) Sdn Bhd	
Astrotech Steels Private Ltd.	
C.H. Robinson Freight Services Ltd.	
Caribbean International Co. Ltd.	
Chia Pao Metal Co. Ltd.	
Expeditors (Malaysia) Sdn Bhd	
Flyjac Logistics Private Ltd.	
Hanjin Logistics India Private Ltd.	
Hecny Transporation (M) Sdn Bhd	
Honour Lane Logistics Sdn Bhd	
Inmax Industries Sdn Bhd	
Inmax Sdn. Bhd.	
Jinhai Hardware Co. Ltd.	
Nora Freight Services Sdn Bhd	
Orient Containers Sdn Bhd	
Orient Star Transport Sdn Bhd	
Region International Co. Ltd.	
Region System Sdn Bhd	
Sino Connections Logistics Co. Ltd.	
Swift Freight Private Ltd.	
Tag Fasteners Sdn Shd	
Oman: Steel Nails, A–523–808	12/29/14–6/30/16
Astrotech Steels Private Ltd.	
Consolidated Shipping Services LLC	
Damco India Private Ltd.	
Flyjac Logistics Private Ltd.	
International Maritime & Aviation LLC	
Liladhar Pasoo India Logistics Private Ltd.	
Ivk Manuport Logistics LLC	
Oman Fasteners LLC	
Overseas Distribution Services Inc.	
Overseas International Steel Industry, LLC	
Raajratna Metal Industries Ltd.	
Shanxi Tianli Industries Co. Ltd.	
Swift Freight India Private Ltd.	
United Building Material Factory	
Uniworld Logistics Pvt Ltd.	
Republic of Korea: Steel Nails, A–580–874	12/29/14–6/30/16
AOT Japan Ltd	
ABF Freight International Private Ltd	
ABN Fasteners Co. Ltd.	
Ace Logistics Co., Ltd. (Tianjin Branch)	
Air Sea Transport Inc.	

	Period to be reviewed
Air Sea Worldwide Logistics Ltd.	
Alpha Forwarding Co. Ltd.	
Apex Maritime Co., Inc. (Dalian)	
Apex Maritime Co. Ltd. (Korea)	
Apex Maritime (Tianjin) Co., Ltd.	
Astrotech Steels Private Limited	
Baoding Jieboshun Trading Corp. Ltd.	
Beijing Jin Heung Co. Ltd.	
Beijing Kang Jie Kong Int'l Cargo Co. Ltd.	
Beijing Qin Li Jeff Trading Co., Ltd.	
Ben Line Agencies–Tianjin	
Berry Clark & Co. Ltd.	
Bipex Co., Ltd.	
BK Fasteners Co.	
Blu Logistics (China) Co., Ltd.	
Bollore Logistics China Co., Ltd.	
Bolung International Trading Co., Ltd.	
Bon Voyage Logistics Inc.	
Brilliant Group Logistics Corp.	
BYK Lines, Incorporated	
C.H. Robinson Freight Services Ltd.	
Caesar International Logistics Co. Ltd.	
Cangzhou Xinqiao Int'l Trade Co. Ltd.	
Capital Freight Management Inc.	
Casia Global Logistics Co Ltd	
Certified Products International Inc.	
Capital Freight Management Inc.	
Casia Global Logistics Co Ltd	
Certfied Products International Inc.	
China Abrasives Industry	
China Staple Enterprise (Tianjin) Co. Ltd	
CJ Korea Express Co., Ltd.	
CMS Logistics, Inc.	
CN Worldwide International Freight	
Concord Freight System Co., Ltd.	
Consolidated Shipping Services L.L.C.	
Cyber Express Corporation	
D&F Material Products Ltd	
Daejin Steel Co.	
Dahnay Logistics Private Ltd.	
Daijin Express Co., Ltd.	
DCS Dah Star Logistics Co., Ltd.	
Deugro Emirates Shipping Co.	
Dezhou Hualude Hardware Products Co., Ltd.	
Dingzhou Derunda Material and Trade Co., Ltd.	
Duo-Fast Korea Co., Ltd.[4]	
Easylink Industrial Co., Ltd.	
Eco Steel Co., Ltd.	
Ejem Brothers Limited	
Euroline Global Co., Ltd.	
Family Express Company Limited	
FG International Logistic Ltd	
Foshan Sanden Enterprise Co., Ltd.	
G Link Express Logistics (Korea) Ltd	
Global Container Line, Inc.	
Goodgood Manufacturers	
Grandlink Logistics Co., Ltd.	
Grubville Enterprises Corporation	
Han Duk Industrial Co., Ltd.	
Hanbit Logistics Co., Ltd.	
Hanjin Logistics India Private Ltd.	
Hanmi Staple Co., Ltd.	
Hariharan Logistics	
Hebei Minmetals Co., Ltd.	
Hecny Transporation Ltd.	
Hecny Shipping Ltd.	
Hellmann Worldwide Logistics Inc.	
Hengtuo Metal Products Co Ltd	
High Link Line Inc.	
Hongyi HK Hardware Products Co.	
Honour Lane Logistics Sdn Bhd	
Huanghua Lianqing Hardware Products	
Huanghua Ruisheng Hardware Products	
Huanghua Yingjin Hardware Products Co., Ltd.	
Huanghua Yiqihe Imp. & Exp. Co, Ltd.	
Huasheng Yida Tianjin International Trading Co. Ltd.	
Huazan Metal Wire Mesh Manufacture Co. Ltd.	
I B International Co., Ltd.	
Inmax Industries Sdn Bhd	
Inno International	
International Maritime and Aviation LLC	
Ivk Manuport Logistics LLC	

	Period to be reviewed
J Consol Line Co., Ltd.	
Jas Forwarding (Korea) Co. Ltd.	
Jail Tacker Co., Ltd.	
Je-il Wire Production Co., Ltd.	
Jiangsu Globe Logistics Co., Ltd.	
Jiaozuo Deled Hardware Manufacturing Co., Ltd.	
Jinhai Hardware Co., Ltd.	
Jinheung Steel Corporation[5]	
Jinsco International Corp.[6]	
Jinzhou Yihe Metal Products Co., Ltd.	
Joo Sung Sea Air Co., Ltd.	
K Logistics Corp. (Korea)	
Kase Logistics International	
Kasy Logistics (Tianjin) Co., Ltd.	
King Freight International Corp.	
King Shipping Company	
Kongo Special Nail Mfg. Co., Ltd.	
Koram Inc.	
Koram Steel Co., Ltd.	
Korea Wire Co., Ltd.	
Kuehne Nagel Ltd. (Tianjin Branch)	
Kyungjoo Sejung Corporation	
Laapraa Shipping Private Ltd.	
Liaocheng Minghui Hardware Products	
Linyi Doublwe Moon Hardware Products Co., Ltd.	
Linyi Flying Arrow Imp. & Exp. Ltd.	
Liladhar Pasoo India Logistics Private Ltd.	
Micasa Corporation Osaka Japan	
Mingguang Ruifeng Hardware Products Co., Ltd.	
Nailtech Co. Ltd.	
Nanjing Caiqing Hardware Co., Ltd.	
Neo Gls	
Ningbo Port Southeast Logistics Group Co., Ltd.	
Nippon Seisen Co., Ltd.	
Ocean King Industries Limited	
OEC Freight Woldwide Korea Co. Ltd.	
OEC Logistics Co., Ltd.	
Oman Fasteners LLC	
On Time Worldwire Logistics Ltd.	
Orient Express Container Co., Ltd.	
Overseas Distribution Services Inc.	
Overseas International Steel Industry	
Pacific Global Logistics Co., Ltd.	
Panalpina World Transport (PRC) Ltd.	
Paslode Fasteners (Shanghai) Co. Ltd.	
Peace Korea Co., Ltd.	
Prime Global Products Inc.	
Prime Shipping International Inc.	
Promising Way (Hong Kong) Limited	
Pudong Prime International Logistics, Inc.	
Qingdao D&L Group Ltd.	
Qingdao Gold-Dragon Co. Ltd.	
Qingdao Golden Sunshine Metal Products Co., Ltd.	
Qingdao Master Metal Products Co. Ltd.	
Qingdao Meijialucky Industry and Commerce Co., Ltd.	
Qingdao Mst Industry and Commerce Co., Ltd.	
Qingdao Tiger Hardware Co., Ltd.	
Qingdao Uni-Trend International Limited	
Ramses Logistics Company Limited	
Regency Global Logistics (Shanghai) Co., Ltd.	
Ricoh Logistics System Co., Ltd.	
Romp Coil Nail Industries Inc.	
Romp (Tianjin) Hardware Co. Ltd.	
Scanwell Container Line Ltd.	
SDC International Australia PTY Ltd.	
SDV PRC International Freight Forwarding Co. Ltd.	
SDV Vietnam Co. Ltd.	
Sea Master Logistics Ltd.	
Sejung (China) Sea & Air Co., Ltd.	
Shandong Liaocheng Minghua Metal PR	
Shandong Oriental Cherry Hardware Group	
Shanghai Curvet Hardware Products Co., Ltd.	
Shanghai Jade Shuttle Hardware Tools Co., Ltd.	
Shanghai Kaijun Logistics Co., Ltd.	
Shanghai Pinnacle International Trading Co., Ltd.	
Shanghai Pudong International Transporation	
Shanxi Hairui Trade Co., Ltd.	
Shanxi Pioneer Hardware Industry Co., Ltd.	
Shanxi Tianli Industries Co., Ltd.	
Shenzhen Syntrans International Logistics Co., Ltd.	
Shine International Transporation Ltd.	
Shipping Imperial Co., Ltd.	

	Period to be reviewed
Sirius Global Logistics Co. Ltd.	
Smart Logistics Co., Ltd.	
S-Mart (Tianjin) Technology Development Co., Ltd.	
Suntec Industries Co., Ltd.	
Sunworld Industry Company Limited	
Swift Freight (India) Pvt Ltd.	
T.H.I. Group (Shanghai) Ltd.	
TCW Line Co., Ltd.	
The Stanley Works (Langfang) Fastening System Co., Ltd.	
Tianjin Bluekin Industries Limited	
Tianjin Coways Metal Products Co.	
Tianjin Hongli Qiangsheng Imp. Exp.	
Tianjin Huixinshangmao Co. Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Tianjin Jinghai County Hongli Industry	
Tianjin Juxiang Metal Products Co. Ltd.	
Tianjin Lianda Group Co., Ltd.	
Tianjin Lituo Imp. Exp. Co. Ltd.	
Tianjin M&C Electronices Co., Ltd.	
Tianjin Universal Machinery Imp. & Exp. Corp.	
Tianjin Zhonglian Metals Ware Co. Ltd.	
Tianjin Zhonglian Times Technology	
Toll Global Forwarding (Beijing) Ltd.	
Top Ocean Korea Limited	
Top Ocean Consolidated Service Ltd.	
TP Steel Co. Ltd.	
Trans Knights, Inc.	
Trans Wagon Int'l Co., Ltd.	
Translink Shipping, Inc.	
Unicorn (Tianjin) Fasteners Co., Ltd.	
United Nail Products Co., Ltd.	
Universal Sea & Air Co., Ltd.	
UPS SCS (China) Limited	
V-Line Shipping Co., Ltd.	
W&K Corporation Limited	
Wah Shing Trading Flat RM G	
Weifang United Laisee International Trade Co. Ltd.	
Xi'an Metals and Minerals Imp. Exp. Co.	
Xinjiayuan Trading Co., Limited	
Xuzhou CIP International Group Co. Ltd.	
Yicheng Logistics	
Youngwoo Fasteners Co., Ltd.	
You-One Fastening Systems	
Zen Continental (Tianjin) Enterprises	
Zhejiang Best Nail Industry Co., Ltd.	
Russia: Solid Urea, A–821–801	7/1/15–6/30/16
Joint Stock Company PhosAgro-Cherepovets	
MCC EuroChem	
Socialist Republic of Vietnam: Steel Nails, A–552–818	12/29/14–6/30/16
Astrotech Steels Private Limited	
Blue Moon Logistics Private Ltd.	
Bollore Logistics Vietnam Co. Ltd.	
Dahnay Logistics Private Ltd	
Dicha Sombrilla Co., Ltd.	
FGS Logistics Co. Ltd.	
Honour Lane Shipping Ltd	
Rich State Inc.	
SDV Vietnam Co. Ltd.	
Truong Vinh Ltd.	
United Nail Products Co. Ltd.	
Taiwan: Polyethylene Terephthalate (Pet) Film, A–583–837	7/1/15–6/30/16
Nan Ya Plastics Corporation	
Shinkong Materials Technology Corporation	
Taiwan: Steel Nails, A–583–854	5/20/15–6/30/16
ABF Freight International Private Ltd	
Air Sea Transport, Inc.	
Apex Maritime (Fuzhou) Co., Ltd.	
Apex Maritime (Shenzhen) Co., Ltd.	
Aplus Pneumatic Corp.	
Astrotech Steels Private Ltd.	
Basso Industry Corporation	
Blue Moon Logistics Private Ltd.	
Bonuts Hardware Logistic Co., Ltd.	
Bollore Logistics (Taiwan) Ltd.	
Bollore Logistics (Vietnam) Co. Ltd.	
C.H. Robinson Freight Services	
Certified Products Taiwan Inc.	
Challenge Industrial Co., Ltd.	
Chia Pao Metal Co. Ltd.	
China Staple Enterprise Corporation	
Chite Enterprise Co., Ltd.	
Crown Run Industrial Corp.	

	Period to be reviewed
Dahnay Logistics Private Ltd.	
DIFS Logistics Co. Ltd.	
Eagre International Trade Co., Ltd.	
Easylink Industrial Co., Ltd.	
Encore Green Co., Ltd.	
Everise Global Logistics Co., Ltd.	
Faithful Engineering Products Co. Ltd.	
Fastenal Asia Pacific Ltd.	
Freight Links International Ltd.	
General Merchandise Consolidators	
Ginfa World Co. Ltd.	
Gloex Company	
Hariharan Logistics	
Hecny Group	
Hi-Sharp Industrial Corp. Ltd.	
Home Value Co., Ltd.	
Honour Lane Logistics Co., Ltd.	
Hor Liang Industrial Corp.	
HWA Hsing Screw Industry Co. Ltd.	
Inmax Industries Sdn Bhd	
Integral Building Products Inc.	
Interactive Corporation	
Jade Shuttle Enterprise Co., Ltd.	
Jau Yeou Industry Co. Ltd.	
Jinhai Hardware Co., Ltd.	
K Win Fasteners Inc.	
King Freight International Corporation	
Kuan Hsin Screw Industry Co., Ltd.	
Liang Chyuan Industrial Co., Ltd.	
Linkwell Industry Co. Ltd.	
ML Global Ltd.	
Maytrans International Corp.	
Newrex Screw Corporation	
Nora Freight Services Sdn Bhd	
Orient Express Container Co., Ltd.	
Orient Star Transport International Ltd.	
Pacific Concord International Ltd.	
Patek Tool Co., Ltd.	
Pneumax Corp.	
President Industrial Inc.	
Pro-Team Coil Nail Enterprise Inc.	
PT Enterprise Inc.	
Qi Ding Enterprise Co. Ltd.	
Quick Advance Inc.	
Ray Fu Enterprise Co., Ltd.	
Region System Sdn Bhd	
Romp Coil Nails Industries Inc.	
Schenker (H.K.) Ltd. Taiwan Branch	
Shang Jeng Nail Co., Ltd.	
Suntec Industries Co., Ltd.	
T.H.I. Logistics Co. Ltd.	
Tag Fasteners Sdn Bhd	
Taiwan Wakisangyo Co. Ltd.	
Tianjin Jinchi Metal Products Co. Ltd.	
TK Logistics International Co. Ltd.	
Topocean Consolidation Service Ltd	
Transworld Transportation Co. Ltd.	
Trim International Inc.	
Tsi-Translink (Taiwan) Co. Ltd.	
U-Can-Do Hardware Corp.	
Unicatch Industrial Co. Ltd.	
United Nail Products Co. Ltd.	
UPS Supply Chain Solutions	
WTA International Co. Ltd.	
Yeun Chang Hardware Tool Co. Ltd.	
Yusen Logistics (Taiwan) Ltd	
Yu Tai World Co., Ltd.	
Zon Mon Co. Ltd.	
The People's Republic of China: Certain Steel Threaded Rod,[7] A–570–932	4/1/15–3/31/16
Hong Kong Yichen Co. Ltd.	
Ningbo Qianjiu Instrument Case Factory	
Ningbo Zhendai Dingli Fasterner Screw Co., Ltd.	
The People's Republic of China: Circular Welded Carbon Quality Steel Pipe, A–570–910	7/1/15–6/30/16
Baoshan Iron & Steel Co., Ltd.	
Beijing Jia Mei Ao Trade Co., Ltd.	
Beijing Jinghua Global Trading Co.	
Benxi Northern Steel Pipes, Co. Ltd.	
CNOOC Kingland Pipeline Co., Ltd.	
ETCO (China) International Trading Co., Ltd.	
Guangzhou Juyi Steel Pipe Co., Ltd.	
Huludao City Steel Pipe Industrial	
Jiangsu Changbao Steel Tube Co., Ltd.	

	Period to be reviewed
Jiangsu Yulong Steel Pipe Co., Ltd.	
Liaoning Northern Steel Pipe Co., Ltd.	
Pangang Chengdu Group Iron & Steel Co., Ltd.	
Shanghai Zhongyou TIPO Steel Pipe Co., Ltd.	
Tianjin Baolai International Trade Co., Ltd.	
Tianjin Haoyou Industry Trade Co.	
Tianjin Longshenghua Import & Export	
Tianjin Shuangjie Steel Pipe Co., Ltd.	
Weifang East Steel Pipe Co., Ltd.	
WISCO & CRM Wuhan Materials & Trade	
Zhejiang Kingland Pipeline Industry Co., Ltd.	
The People's Republic of China: Xanthan Gum, A–570–985	7/1/15–6/30/16
A.H.A. International Co., Ltd.	
CP Kelco (Shandong) Biological Company Limited	
Deosen Biochemical (Ordos) Ltd.	
Deosen Biochemical Ltd.	
Hebei Xinhe Biochemical Co. Ltd.	
Inner Mongolia Jianlong Biochemical Co., Ltd.	
Jianlong Biotechnology Co., Ltd.	
Langfang Meihua Bio-Technology Co., Ltd.	
Meihua Group International Trading (Hong Kong) Limited	
Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)	
Shandong Fufeng Fermentation Co., Ltd.	
Shanghai Smart Chemicals Co., Ltd.	
Xinjiang Fufeng Biotechnologies Co., Ltd.	
Xinjiang Meihua Amino Acid Co., Ltd.	
Turkey: Certain Pasta, A–489–805	7/1/15–6/30/16
Mutlu Makarnacilik Sanayi ve Ticaret A.S.	
Countervailing Duty Proceedings	
India: Polyethylene Terephthalate (Pet) Film, C–533–825	1/1/15–12/31/15
Ester Industries Ltd.	
Garware Polyester Ltd.	
Jindal Poly Films Limited of India	
Jindal Poly Films Ltd. (India)	
MTZ Polyesters Ltd.	
Polyplex Corporation Ltd.	
SRF Limited	
Uflex Ltd.	
Vacmet	
Vacmet India Limited	
Italy: Certain Pasta, C–475–819	1/1/15–12/31/15
GR.A.M.M. S.R.L.	
La Fabbrica della Pasta di Gragnano S.A.S. di Antonio Moccia	
Liguori Pastificio dal 1820 S.p.A.	
Pastificio Andalini, S.p.A.	
Pastificio Labor S.R.L.	
Pastifico Zaffiri S.r.l	
Premiato Pastificio Afeltra S.r.l.	
Tesa SrL	
Socialist Republic of Vietnam: Steel Nails, C–552–819	11/3/14–12/31/15
Astrotech Steels Private Limited	
Blue Moon Logistics Private Ltd.	
Bollore Logistics Vietnam Co. Ltd.	
Dahnay Logistics Private Ltd	
Dicha Sombrilla Co., Ltd.	
FGS Logistics Co. Ltd.	
Honour Lane Shipping Ltd	
Rich State Inc.	
SDV Vietnam Co. Ltd.	
Truong Vinh Ltd.	
United Nail Products Co. Ltd.	
The People's Republic of China: Circular Welded Carbon Quality Steel Pipe, C–570–911	1/1/15–12/31/15
Baoshan Iron & Steel Co., Ltd.	
Beijing Jia Mei Ao Trade Co., Ltd.	
Beijing Jinghua Global Trading Co.	
Benxi Northern Steel Pipes, Co. Ltd.	
CNOOC Kingland Pipeline Co., Ltd.	
ETCO (China) International Trading Co., Ltd.	
Guangzhou Juyi Steel Pipe Co., Ltd.	
Huludao City Steel Pipe Industrial	
Jiangsu Changbao Steel Tube Co., Ltd.	
Jiangsu Yulong Steel Pipe Co., Ltd.	
Liaoning Northern Steel Pipe Co., Ltd.	
Pangang Chengdu Group Iron & Steel Co., Ltd.	
Shanghai Zhongyou TIPO Steel Pipe Co., Ltd.	
Tianjin Baolai International Trade Co., Ltd.	
Tianjin Haoyou Industry Trade Co.	
Tianjin Longshenghua Import & Export	
Tianjin Shuangjie Steel Pipe Co., Ltd.	
Weifang East Steel Pipe Co., Ltd.	
WISCO & CRM Wuhan Materials & Trade	
Zhejiang Kingland Pipeline Industry Co., Ltd.	

	Period to be reviewed
Suspension Agreements	
None.	

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[8] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[9] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered

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[4] Entries of merchandise produced and exported by Duo-Fast Korea Co., Ltd. ("DFK") are not subject to antidumping duties because the Department's final determination with respect to this producer/exporter combination was negative. *See Certain Steel Nails from the Republic of Korea: Final Determination of Sales at Less than Fair Value,* 80 FR 28955 at 28957 (*Steel Nails Korea Final Determination*) (May 20, 2015). However, any entries of merchandise produced by any other entity and exported by DFK or produced by DFK and exported by another entity are subject to the order.

[5] Entries of merchandise produced and exported by Jinheung Steel Corporation ("Jinheung") are not subject to antidumping duties because the Department's final determination with respect to this producer/exporter combination was negative. *See Certain Steel Nails from the Republic of Korea: Final Determination of Sales at Less than Fair Value,* 80 FR 28955 at 28957 (*Steel Nails Korea Final Determination*) (May 20, 2015). However, any entries of merchandise produced by any other entity and exported by Jinheung or produced by Jinheung and exported by another entity are subject to the order.

[6] Entries of merchandise produced and exported by Jinsco International Corp. ("Jinsco") are not subject to antidumping duties because the Department's final determination with respect to this producer/exporter combination was negative. *See Certain Steel Nails from the Republic of Korea: Final Determination of Sales at Less than Fair Value,* 80 FR 28955 at 28957 (*Steel Nails Korea Final Determination*) (May 20, 2015). However, any entries of merchandise produced by any other entity and exported by Jinsco or produced by Jinsco and exported by another entity are subject to the order.

[7] In the initiation notice that published on June 6, 2016 (81 FR 36268), these three companies were inadvertently not included.

[8] *See* section 782(b) of the Act.

[9] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) ("*Final Rule*"); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 6, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–21866 Filed 9–9–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–928]

Uncovered Innerspring Units From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 10, 2016, the Department of Commerce (the "Department") published the preliminary results of the administrative review of the antidumping duty order on uncovered innerspring units ("innersprings") from the People's Republic of China ("PRC"). We gave interested parties an opportunity to comment on the preliminary results, and based upon our analysis of the comments and information received, we made certain changes for these final results. In these final results, we determine that innersprings are being, or are likely to be, sold in the United States at less than fair value. The period of review ("POR") is February 1, 2014, through January 31, 2015. The final weighted-average dumping margins are listed below in the "Final Results of Review" section of this notice.

DATES: Effective September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Kenneth Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6491.

SUPPLEMENTARY INFORMATION:

Background

This review covers two exporters of subject merchandise: East Grace Corporation ("East Grace") and Macao Commercial and Industrial Spring Mattress Manufacturer ("Macao Commercial").

The Department published the preliminary results on March 10, 2016.[1] A summary of the events that occurred since the Department published the *Preliminary Results,* as well as a full discussion of the issues raised by parties for these final results, may be found in the Final Issues and Decision Memorandum.[2]

Also, as explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its authority to toll all administrative deadlines due to the recent closure of the Federal Government.[3] As a consequence, all deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final results is now September 6, 2016.

Scope of the Order

The merchandise subject to the order is uncovered innerspring units.[4] The product is currently classified under subheading 9404.29.9010 and has also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, or 7320.90.5010, of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in parties' case and rebuttal briefs are addressed in the Issues and Decision Memorandum, which is incorporated herein by reference. A list of the issues which parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at *http://access.trade.gov,* and it is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. The Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

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[1] *See Uncovered Innerspring Units from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2014–2015,* 81 FR 12688 (March 10, 2016) ("*Preliminary Results*") and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Uncovered Innerspring Units from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2014–2015 Administrative Review" ("Issues and Decision Memorandum"), dated concurrently with this notice.

[3] Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016, extending all administrative deadlines by four business days.

[4] *See* Issues and Decision Memorandum for a complete description of the Scope of the Order.

Companies That Did Not Establish Their Eligibility for a Separate Rate

In *the Preliminary Results,* the Department found that East Grace failed to establish its eligibility to receive a separate rate and that it was, thus, part of the PRC-wide entity.[5] The Department has not received any comments that would warrant a review of that determination. Therefore, we continue to find that East Grace is part of the PRC-wide entity for purposes of this review. Because no party requested a review of the PRC-wide entity in this review, the PRC-wide entity is not under review and therefore its rate is not subject to change.[6] The rate previously established for the PRC-wide entity in this proceeding is 234.51 percent.

Changes Since the Preliminary Results

In the *Preliminary Results,* we found that Macao Commercial had no shipments of PRC-origin innersprings during the POR and, therefore, had no reviewable shipments.[7] However, after considering comments raised by interested parties and additional questionnaire responses submitted after the *Preliminary Results,* the Department is revising its preliminary results with respect to Macao Commercial. Specifically, we determine that use of facts available with respect to Macao Commercial is warranted pursuant to section 776(a)(1) & (2)(A), (B), and (C) of the Tariff Act of 1930, as amended ("the Act"). We are also applying an adverse inference in selecting from among the facts available, pursuant to section 776(b) of the Act, because we find that Macao Commercial failed to cooperate to the best of its ability in providing the requested information. Based on the foregoing, we find that Macao Commercial has failed to demonstrate that it had no shipments of PRC-origin innersprings during the POR, and we are assigning a rate to Macao Commercial using adverse facts available.

As part of this determination, we have not adopted petitioner Leggett and Platt, Inc.'s suggestion that the Department also find that the country of origin of *all* of Macao Commercial's exports of innersprings to the United States during the POR is the PRC. However, the information placed on the record during this administrative review as well as prior circumvention findings in this proceeding[8] raise a concern that there are entries which should be subject to the Order but currently are not. The Department intends to consider these facts to determine if it would be appropriate for the Department to self-initiate a circumvention inquiry.

Final Results of Review

The weighted-average dumping margin for the period February 1, 2014, through January 31, 2015, is as follows:

Exporter	Weighted-average dumping margin (percent)
Macao Commercial and Industrial Spring Mattress Manufacturer	234.51

Assessment

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review in the **Federal Register**. For East Grace, the Department will instruct CBP to assess antidumping duties on the companies' entries of subject merchandise (*i.e.,* PRC-origin innersprings) at the rate for the PRC-entity of 234.51 percent. For Macao Commercial, the Department will instruct CBP to assess antidumping duties on the companies' entries of subject merchandise (*i.e.,* PRC-origin innersprings) at the individually-assigned rate of 234.51 percent.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporter listed above, the cash deposit rate will be 234.51 percent for their entries of subject merchandise (*i.e.,* PRC-origin innersprings); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have a separate rate, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding in which the exporter was reviewed; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be that established for the PRC-wide entity of 234.51 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter with the subject merchandise. The deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

In accordance with 19 CFR 351.305(a)(3), this notice also serves as a final reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 6, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I—List of Topics Discussed in the Final Decision Memorandum

1. Summary
2. Background

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[5] *See Preliminary Results,* 81 FR at 12689.

[6] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[7] *See Preliminary Results,* 81 FR at 12689.

[8] *See, e.g., Uncovered Innerspring Units from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 79 FR 3345 (January 21, 2014).

3. Scope of the Order
4. Discussion of the Issue
5. Application of Facts Available
6. Affiliations
7. Sales Process
8. Q&V Information Financial Statements/ Sales Reconciliations
9. Cost Reconciliations
10. Use of Adverse Inferences
11. Country of Origin
12. Recommendation

[FR Doc. 2016–21859 Filed 9–9–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Open Meeting of the Commission on Enhancing National Cybersecurity

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The Commission on Enhancing National Cybersecurity will meet Monday, September 19, 2016 from 9:00 a.m. until 5:00 p.m. Eastern Time at the American University Washington College of Law, Claudio Grossman Hall, Yuma Building. The primary purpose of the meeting is to discuss the challenges and opportunities for organizations and consumers in securing the digital economy. In particular, the meeting will address: (1) International concerns; (2) review of current state of cybersecurity; (3) growing and securing the digital economy; and (4) innovation and technology in the government. The meeting will support detailed recommendations to strengthen cybersecurity in both the public and private sectors while protecting privacy, ensuring public safety and economic and national security, fostering discovery and development of new technical solutions, and bolstering partnerships between Federal, State, local, tribal and territorial governments and the private sector in the development, promotion, and use of cybersecurity technologies, policies, and best practices. All sessions will be open to the public.

DATES: The meeting will be held on Monday, September 19, 2016 from 9:00 a.m. until 5:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held at the American University Washington College of Law, Claudio Grossman Hall, Yuma Building, located at 4300 Nebraska Avenue NW., Washington, DC 20016. The meeting is open to the public and interested parties are requested to contact Sara Kerman at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice in advance of the meeting for building entrance requirements.

FOR FURTHER INFORMATION CONTACT: Sara Kerman, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2000, Gaithersburg, MD 20899–8900, telephone: 301–975–4634, or by email at: *eo-commission@nist.gov.* Please use subject line *"Open Meeting of the Commission on Enhancing National Cybersecurity—DC"*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Commission on Enhancing National Cybersecurity ("the Commission") will meet Monday, September 19, 2016 from 9:00 a.m. until 5:00 p.m. Eastern Time. All sessions will be open to the public. The Commission is authorized by Executive Order 13718, Commission on Enhancing National Cybersecurity.[1] The Commission was established by the President and will make detailed recommendations to strengthen cybersecurity in both the public and private sectors while protecting privacy, ensuring public safety and economic and national security, fostering discovery and development of new technical solutions, and bolstering partnerships between Federal, State, local, tribal and territorial governments and the private sector in the development, promotion, and use of cybersecurity technologies, policies, and best practices.

The agenda is expected to include the following items:

—Introductions
—Panel discussion on International Concerns
—Panel discussion—Current State Review—"How did we get here?"
—Panel discussion on Growing and Securing the Digital Economy
—Panel discussion on Embracing Innovation and Technology in the Government
—Conclusion

Note that agenda items may change without notice. The final agenda will be posted on *http://www.nist.gov/cybercommission.* Seating will be available for the public and media. No registration is required to attend this meeting; however, on-site attendees are asked to voluntarily sign in and space will be available on a first-come, first-served basis.

Public Participation: The Commission agenda will include a period of time, not to exceed fifteen minutes, for oral comments from the public on Monday, September 19, 2016 from 4:15 p.m. until 4:30 p.m. Eastern Time. Speakers will be selected on a first-come, first-served basis. Each speaker will be limited to five minutes. Questions from the public will not be considered during this period. Members of the public who are interested in speaking are requested to contact Sara Kerman at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements. In addition, written statements are invited and may be submitted to the Commission at any time. All written statements should be directed to the Commission Executive Director, Information Technology Laboratory, 100 Bureau Drive, Stop 8900, National Institute of Standards and Technology, Gaithersburg, MD 20899–8900 or by email at: *cybercommission@nist.gov.* Please use subject line *"Open Meeting of the Commission on Enhancing National Cybersecurity—DC"*.

Pursuant to 41 CFR 102–3.150(b), this **Federal Register** notice for this meeting is being published fewer than 15 calendar days prior to the meeting as exceptional circumstances exist. It is imperative that the meeting be held on September 19, 2016 to accommodate the scheduling priorities of the key participants, who must maintain a strict schedule of meetings in order to complete the Commission's report by December 1, 2016, as required by Executive Order 13718 § 3(e) (February 9, 2016). Notice of the meeting is also posted on the National Institute of Standards and Technology's Web site at *http://www.nist.gov/cybercommission.*

Kevin Kimball,

Chief of Staff.

[FR Doc. 2016–21813 Filed 9–9–16; 8:45 am]

BILLING CODE 3510–13–P

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[1] *https://www.federalregister.gov/articles/2016/02/12/2016-03038/commission-on-enhancing-national-cybersecurity.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE875

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a meeting, which is open to the public, of its Coastal Pelagic Species (CPS) Subcommittee of the Scientific and Statistical Committee (SSC).

DATES: The meeting will be held from 10 a.m. to 5 p.m. on Tuesday, October 11, 2016.

ADDRESSES: The meeting will be held in the Pacific Conference Room of the NOAA Southwest Fisheries Science Center, 8901 La Jolla Shores Dr., La Jolla, CA 92037–1508.

Council address: Pacific Fishery Management Council, 7700 NE., Ambassador Place, Suite 101, Portland, Oregon 97220.

FOR FURTHER INFORMATION CONTACT: Mr. Kerry Griffin, Staff Officer; telephone: 503–820–2409.

SUPPLEMENTARY INFORMATION:

Agenda

The primary purpose of the meeting is to review a biomass estimate for the central subpopulation of northern *anchovy.* The SSC CPS subcommittee will conduct the review, with one member each from the CPS Management Team and CPS Advisory Subpanel (CPSAS) serving as advisers. The subcommittee will submit a report to the full SSC, for further review at the November 15–21, 2016, Council meeting in Garden Grove, California. At that meeting, the Council will consider the biomass estimate along with any recommendations of the SSC, other advisory bodies, and public comment; and may consider taking management action.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Dale Sweetnam, at 858–546–7170, at least ten days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 7, 2016.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–21820 Filed 9–9–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE871

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare an Environmental Impact Statement; request for comments.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), this notice announces that NMFS intends to obtain information necessary to prepare an Environmental Impact Statement (EIS) for eight Hatchery and Genetic Management Plans (HGMP) for ongoing salmon and steelhead hatchery programs jointly submitted by the Washington Department of Fish and Wildlife (WDFW), the Puyallup Tribe of Indians, and the Muckleshoot Indian Tribe (referred to as the co-managers), for NMFS' evaluation and determination under Limit 6 of the Endangered Species Act (ESA) 4(d) Rule for threatened salmon and steelhead. The HGMPs specify the propagation of salmon and steelhead in the Puyallup-White River Basin in Washington State. NMFS provides this notice to advise other agencies and the public of its plans to analyze effects related to the action, and obtain suggestions and information that may be useful to the scope of issues and alternatives to include in the EIS.

DATES: Written or electronic scoping comments must be received at the appropriate address or email mailbox (see **ADDRESSES**) no later than 5 p.m. Pacific Time October 12, 2016.

ADDRESSES: Written comments may be sent by any of the following methods:

- *Email to the following address: PuyallupHatcheriesEIS.wcr@noaa.gov* with the following identifier in the subject line: Puyallup Hatcheries Scoping.
- Mail or hand-deliver to NMFS West Coast Region, Sustainable Fisheries Division, 510 Desmond Drive SE., Suite 103, Lacey, WA 98503.
- Fax to (360) 753–9517.

Comments received will be available for public inspection, by appointment, during normal business hours at the above address. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Steve Leider, NMFS, by phone at (360) 753–4650, or email to *steve.leider@noaa.gov.*

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notice

Steelhead (*Oncorhynchus mykiss*): Threatened, naturally and artificially produced in Puget Sound.

Chinook salmon (*O. tshawytscha*): Threatened, naturally and artificially produced in Puget Sound.

Chum salmon (*O. keta*): Threatened, naturally and artificially produced Hood Canal summer-run.

Bull trout (*Salvelinus confluentus*): Threatened Coastal Recovery Unit.

Background

The WDFW, the Puyallup Tribe of Indians, and the Muckleshoot Indian Tribe have jointly submitted to NMFS plans for eight ongoing hatchery programs in the Puyallup-White River Basin. The plans were submitted to NMFS from 2012 to 2016, pursuant to Limit 6 of the ESA 4(d) Rule for salmon and steelhead. The hatchery programs include releases of ESA-listed Chinook salmon and winter-run steelhead, and non-listed coho and fall-run chum salmon into the Puyallup-White River Basin.

NEPA requires Federal agencies to conduct environmental analyses of their proposed major actions to determine if the actions may affect the human environment. NMFS' action of determining that the co-managers' HGMPs meet criteria under Limit 6 of the 4(d) Rule for salmon and steelhead promulgated under the ESA is a major Federal action subject to environmental review under NEPA. Therefore, NMFS is seeking public input on the scope of the required NEPA analysis, including the range of reasonable alternatives, recommendations for relevant analysis methods, and information associated with impacts of the alternatives to the resources listed below or other relevant resources.

NMFS will perform an environmental review of the HGMPs and prepare an EIS that will identify potentially significant direct, indirect, and cumulative impacts on the following resources that may be affected by the Proposed Action or its alternatives:

- Listed and Non-listed Species and their habitats;
- Water Quantity;
- Socioeconomics;

- Environmental Justice; and
- Cumulative Impacts.

NMFS will rigorously explore and objectively evaluate a full range of reasonable alternatives in the EIS, including the Proposed Action (implementation of the co-managers' submitted HGMPs) and a no-action alternative (continuation of the hatchery programs with no 4(d) determination). Other alternatives may include a decreased production alternative and a no-production alternative. For all potentially significant impacts, the EIS will identify measures to avoid, minimize, and mitigate the impacts, where feasible, to a level below significance.

Request for Comments

NMFS provides this notice to: (1) Advise other agencies and the public of its plans to analyze effects related to the action, and (2) obtain suggestions and information that may be useful to the scope of issues and the full range of alternatives to include in the EIS.

NMFS invites comment from all interested parties to ensure that the full range of issues related to the eight salmon and steelhead HGMPs is identified. Comments should be as specific as possible.

Written comments concerning the Proposed Action and the environmental review should be directed to NMFS as described above (see **ADDRESSES**). All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

Authority

The environmental review of the eight salmon and steelhead HGMPs in the Puyallup-White River Basin of Washington State will be conducted in accordance with requirements of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and policies and procedures of NMFS for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS.

Dated: September 6, 2016.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–21779 Filed 9–9–16; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0088]

Agency Information Collection Activities; Submission for OMB Review; Comment Request—Third Party Conformity Assessment Body Registration Form

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act ("PRA") of 1995 (44 U.S.C. chapter 35), the Consumer Product Safety Commission ("Commission" or "CPSC") announces that the Commission has submitted to the Office of Management and Budget ("OMB") a request for extension of approval of a collection of information under the requirements pertaining to a third party conformity assessment body registration form, approved previously under OMB Control No. 3041–0143. In the **Federal Register** of June 30, 2016 (81 FR 42669), the CPSC published a notice to announce the agency's intention to seek extension of approval of the collection of information. The Commission received one comment that was out of scope. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by October 12, 2016.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at: *http://www.regulations.gov,* under Docket No. CPSC–2009–0088.

FOR FURTHER INFORMATION CONTACT: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Third Party Conformity Assessment Body Registration Form.

OMB Number: 3041–0143.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Third party conformity assessment bodies seeking acceptance of accreditation or continuing accreditation.

General Description of Collection

The Consumer Product Safety Improvement Act of 2008 ("CPSIA") requires third party testing be conducted by a third party conformity assessment body for any children's product subject to a children's product safety rule, before importing for consumption or warehousing or distributing in commerce. The CPSIA allows accreditation of third party conformity assessment bodies to be conducted, either by the Commission, or by an independent accreditation organization designated by the Commission, and furthermore, requires that the Commission maintain on its Web site an up-to-date list of entities that have been accredited to assess conformity with children's product safety rules. With the exception of firewalled third party conformity assessment bodies, the Commission has chosen to accept the accreditation of third party conformity assessment bodies that meet accreditation requirements of an independent accreditation organization.

To assess a third party conformity assessment body's qualifications for acceptance by CPSC, information related to location, accreditation, and ownership must be collected from third party conformity assessment bodies. The CPSC uses an online collection form, CPSC Form 223, to gather information from third party conformity assessment bodies voluntarily seeking acceptance by CPSC. The information collected relates to location, accreditation, and ownership. The Commission staff uses this information to assess:

- A third party conformity assessment body's status as either an independent third party conformity assessment body, a government-owned or government-controlled conformity assessment body, or a firewalled conformity assessment body;
- Qualifications for acceptance by CPSC to test for compliance to specified children's product safety rules; and
- Eligibility for acceptance on the CPSC Web site.

Part 1112 requires the collection of information in CPSC Form 223:

- Upon initial application by the third party conformity assessment body for acceptance by CPSC;
- Whenever there is a change to accreditation or ownership information; and
- At least every 2 years as part of a regular audit process.

Burden Estimates

The CPSC estimates the burden of the collection of information in CPSC Form 223 is as follows:

ESTIMATED ANNUAL REPORTING BURDEN

Activity	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total hours
Initial Registration	40	1	40	1	40
Re-Registration	243	1	243	1	243
Changes in Information	2	1	2	0.25	0.5
Total	....	....	....	....	283.5

These estimates are based on the following information:

- From March 23, 2015 to March 23, 2016, 39 new third party conformity assessment bodies have registered with the CPSC; 36 registered during the previous 12 months. Therefore, we estimate the number of third party conformity assessment bodies who would register initially each year for the next 3 years would be 40.
- Under 16 CFR part 1112, third party conformity assessment bodies are required to resubmit CPSC Form 223 every 2 years. Because all third party conformity assessment bodies have not submitted their first CPSC Form 223s at the same time, only about half would be expected to resubmit a CPSC Form 223 in any one year. As of March 2016, 487 third party conformity assessment bodies have registered with CPSC. Approximately half (243) of these firms would be required to re-register with CPSC each year.
- Under 16 CFR part 1112, third party conformity assessment bodies are required to ensure that the information submitted on CPSC Form 223 is current and must submit a new CPSC Form 223 whenever the information changes. Based on current experience with third party conformity assessment bodies, we estimate that two third party conformity assessment bodies will make revisions per year to update their information. A change in information is a change that does not require review of laboratory accreditation documents, such as scope or test methods. Examples of revised information include changes in the Web site URL, name of the laboratory, and name of point of contact.

The total burden, therefore, is 283.5 hours, which we will round up to 284 hours. We estimate that hourly compensation for the time required for recordkeeping is $32.82 per hour (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," Table 9, total compensation for sales, office, and related workers in goods-producing industries, December 2015: *http://www.bls.gov/ncs*). The total cost burden to the respondents is approximately $9,321 ($32.82 × 284 hours = $9,321.88).

We received one comment on the announcement of the agency's intention to seek extension of approval of this collection of information. The comment is out of scope because it addresses collecting and tracking safety information about children's products. The commenter asserts that without some type of registration or monitoring devise in place, proper problem identification will continue to be an issue. That is not the purpose of Form 223. Form 223, which is the subject of this PRA renewal request, addresses the application process for third party conformity assessment bodies that desire to be accepted by the CPSC for third party testing.

Dated: September 7, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016–21826 Filed 9–9–16; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Intent To Grant an Exclusive License; Kapalya, Inc.

AGENCY: National Security Agency, DoD.

ACTION: Notice.

SUMMARY: The National Security Agency hereby gives notice of its intent to grant Kapalya, Inc. a revocable, non-assignable, exclusive, license to practice the following Government-Owned invention as described and claimed in United States Patent Number (USPN), 7,827,408, "Device and method of authenticated cryptography."

DATES: Anyone wishing to object to the grant of this license has until September 27, 2016 to file written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

ADDRESSES: Written objections are to be filed with the National Security Agency Technology Transfer Program, 9800 Savage Road, Suite 6843, Fort George G. Meade, MD 20755–6843.

FOR FURTHER INFORMATION CONTACT: Linda L. Burger, Director, Technology Transfer Program, 9800 Savage Road, Suite 6843, Fort George G. Meade, MD 20755–6843, telephone (443) 634–3518.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The patent rights in these inventions have been assigned to the United States Government as represented by the National Security Agency.

Dated: September 6, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–21812 Filed 9–9–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0082]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Native American Career and Technical Education Program (NACTEP) Performance Reports

AGENCY: Office of Career, Technical, and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 12, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0082. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–349, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Braden Goetz, 202–245–7405.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Native American Career and Technical Education Program (NACTEP) Performance Reports.

OMB Control Number: 1830–0573.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 30.

Total Estimated Number of Annual Burden Hours: 1,200.

Abstract: The Native American Career and Technical Education Program (NACTEP) is requesting an extension to collect semi-annual, annual/continuation reports, and final performance reports from currently funded NACTEP grantees. This information is necessary to (1) manage and monitor the current NACTEP grantees, and (2) award continuation grants for years four and five of the grantees' performance periods. The continuation performance reports will include budgets, performance/statistical reports, GPRA reports, and evaluation reports. The data, collected from the performance reports, will be used to determine if the grantees successfully met their project goals and objectives, so that NACTEP staff can award continuation grants. Final performance reports are required to determine whether or not the grant can be closed out in compliance with the grant's requirements.

Dated: September 7, 2016.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–21862 Filed 9–9–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0076]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; HEAL Program: Physician's Certification of Borrower's Total and Permanent Disability

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 12, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0076. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–343, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: HEAL Program: Physician's Certification of Borrower's Total and Permanent Disability.

OMB Control Number: 1845–0124.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 70.

Total Estimated Number of Annual Burden Hours: 18.

Abstract: This is a request for an extension of OMB approval of information collection requirements associated with the form for the Health Education Assistance Loan (HEAL) Program, Physician's Certification of Borrower's Total and Permanent Disability currently approved under OMB No. 1845–0124. The form is HEAL Form 539. A borrower and the borrower's physician must complete this form. The borrower then submits the form and additional information to the lending institution (or current holder of the loan) who in turn forwards the form and additional information to the Secretary for consideration of discharge of the borrower's HEAL loans. The form provides a uniform format for borrowers and lenders to use when submitting a disability claim.

Dated: September 7, 2016.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–21838 Filed 9–9–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0077]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Form for Maintenance of Effort Waiver Requests Under the Elementary and Secondary Education Act of 1965, as Amended

AGENCY: Department of Education (ED), Office of Elementary and Secondary Education (OESE).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 12, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0077. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–349, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Matthew Stern, 202–453–6451.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Form for Maintenance of Effort Waiver Requests Under the Elementary and Secondary Education Act of 1965, as amended.

OMB Control Number: 1810–0693.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 20.

Total Estimated Number of Annual Burden Hours: 1,600.

Abstract: Section 8521(a) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA) provides that a local educational agency (LEA) may receive funds under Title I, Part A and other ESEA "covered programs" for any fiscal year only if the State educational agency (SEA) finds that either the combined fiscal effort per student or the aggregate expenditures of the LEA and the State with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year. This provision is the maintenance of effort (MOE) requirements for LEAs under the ESEA.

The purpose of this extension request is to renew approval for the MOE waiver form; this MOE waiver form has been updated to reflect the statutory changes in the ESEA, as amended by the Every Student Succeeds Act.

Dated: September 7, 2016.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–21861 Filed 9–9–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–426]

Application to Export Electric Energy; Rassini Energy Project, LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Rassini Energy Project, LLC (Applicant or REP) has applied for authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before October 12, 2016.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000

Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On August 26, 2016, DOE received an application from REP for authority to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities. REP will register as a power marketer with the Public Utility Commission of Texas (PUCT) in order to purchase power at wholesale within the Electric Reliability Council of Texas, Inc. (ERCOT) for export into Mexico.

In its application, REP states that it does not own or control any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that REP proposes to export to Mexico would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

PROCEDURAL MATTERS: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning REP's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–426. An additional copy is to be provided to William D. DeGrandis, Paul Hastings LLP, 875 15th Street NW., Washington, DC 20005.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on September 6, 2016.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2016–21850 Filed 9–9–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Coal Council

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meetings.

SUMMARY: This notice announces a meeting of the National Coal Council (NCC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, October 5, 2016; 8:15 a.m. to 12:15 p.m.

ADDRESSES: Hilton Milwaukee City Center, 509 West Wisconsin Avenue, Milwaukee, WI.

FOR FURTHER INFORMATION CONTACT: Daniel Matuszak, U.S. Department of Energy, 4G–036/Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0001; Telephone: 202–287–6915.

SUPPLEMENTARY INFORMATION:

Purpose of the Council: The National Coal Council provides advice and recommendations to the Secretary of Energy on general policy matters relating to coal and the coal industry.

Purpose of Meeting: The 2016 Fall Meeting of the National Coal Council.

Tentative Agenda:

1. Call to order and opening remarks by Mike Durham, Chair, National Coal Council
2. Remarks by Robert G. Ivy, Senior Advisor, U.S. Department of Energy
3. Presentation by Peter Kirk, Head Digital Coal Solutions, GE Power on Digital Power Plant Management: Enhancing Coal Plant Environmental Compliance
4. Presentation by William Sawyer, Manager Hibbard Renewable Energy Center, Minnesota Power on Carbon-eliminating Allam Cycle for Coal Power Plants
5. Presentation by Danny Gray, Executive Vice President Government & Environmental Affairs, Charah, Inc. on Beneficial Uses of Coal and Coal Byproducts: Coal Ash & Rare Earth Elements
6. Council Business:
    a. Finance report by Finance Committee Chair Greg Workman
    b. Coal Policy Committee report by Coal Policy Committee Chair Deck Slone
    c. Communications Committee report by Communications Committee Chair Lisa Bradley
    d. NCC Business Report by NCC CEO Janet Gellici
7. Other Business
8. Adjourn

Attendees are requested to register in advance for the meeting at: *http://www.nationalcoalcouncil.org/page-NCC-Events.html*

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Council, you may do so either before or after the meeting. If you would like to make oral statements regarding any item on the agenda, you should contact Daniel Matuszak, 202–287–6915 or *daniel.matuszak@hq.doe.gov* (email). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include oral statements on the scheduled agenda. The Chairperson of the Council will lead the meeting in a manner that facilitates the orderly conduct of business. Oral statements are limited to 10-minutes per organization and per person.

Minutes: A link to the transcript of the meeting will be posted on the NCC Web site at: *http://www.nationalcoalcouncil.org/.*

Issued at Washington, DC on September 7, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–21870 Filed 9–9–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES:

Monday, September 26, 2016, 1:00 p.m.–5:00 p.m.

Tuesday, September 27, 2016, 8:30 a.m.–4:45 p.m.

ADDRESSES: Hilton Garden Inn, 1065 Stevens Creek Road, Augusta, Georgia 30907.

FOR FURTHER INFORMATION CONTACT: James Giusti, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7684.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, September 26, 2016:

Opening and Agenda Review
Combined Committees Session
Order of committees:

- Administrative & Outreach
- Facilities Disposition & Site Remediation
- Strategic & Legacy Management
- Waste Management
- Nuclear Materials

Public Comments
Adjourn

Tuesday, September 27, 2016:

Opening, Chair Update, and Agenda Review
Agency Updates
EM Headquarters Reorganization Update
Public Comments
Break
Administrative & Outreach Committee Update
Facilities Disposition & Site Remediation Committee Update
Lunch Break
Waste Management Committee Update
Strategic & Legacy Management Committee Update
Public Comments
Break
Nuclear Materials Committee Update
Public Comments
Adjourn

Public Participation: The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact James Giusti at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact James Giusti's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling James Giusti at the address or phone number listed above. Minutes will also be available at the following Web site: *http://cab.srs.gov/srs-cab.html.*

Issued at Washington, DC, on September 7, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–21835 Filed 9–9–16; 8:45 am]

BILLING CODE 6450–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 2016–6025]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 92–34, Application for Short-Term Letter of Credit Insurance Policy.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the paperwork Reduction Act of 1995.

By neutralizing the effect of export credit insurance and guarantees offered by foreign governments and by absorbing credit risks that the private section will not accept, Ex-Im Bank enables U.S. exporters to compete fairly in foreign markets on the basis of price and product. This collection of information is necessary, pursuant to 12 U.S.C. 635(a)(1), to determine eligibility of the applicant for Ex-Im Bank support.

This form is used by a financial institution (or broker acting on its behalf) in order to obtain approval for non-honoring coverage of short-term letters of credit. The information received provides Ex-Im Bank staff with the information necessary to make a determination of the eligibility of the applicant and transaction for Ex-Im Bank assistance under its programs.

The application can be viewed at *http://www.exim.gov/sites/default/files/pub/pending/eib92-34.pdf.*

DATES: Comments should be received on or before November 14, 2016 to be assured of consideration.

ADDRESSES: Comments maybe submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 92–34 Application for Short-Term Letter of Credit Insurance Policy.

OMB Number: 3048–0009.

Type of Review: Regular.

Need and Use: The information collected will provide information needed to determine compliance and creditworthiness for transaction requests submitted to the Export Import Bank.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 48.

Estimated Time per Respondent: 1 hour.

Annual Burden Hours: 48 hours.

Frequency of Reporting or Use: As needed.

Government Expenses:

Reviewing Time per Year: 48 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $2,040 (time*wages).

Benefits and Overhead: 20%.

Total Government Cost: $2,448.

Bonita Jones-McNeil,

Program Analyst, Agency Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–21879 Filed 9–9–16; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 27, 2016.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org:*

1. *Eloise Hamilton Campbell,* Danville, Kentucky; to acquire additional shares of Middlefork Financial Group, Hyden, Kentucky, and thereby indirectly acquire control of Farmers & Traders Bank of Campton, Campton, Kentucky, Hyden Citizens Bank, Hyden, Kentucky and Farmers State Bank, Booneville, Kentucky.

Board of Governors of the Federal Reserve System, September 7, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–21856 Filed 9–9–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2016–0053; Sequence 16; OMB Control No. 9000–0095]

Submission for OMB Review; Commerce Patent Regulations

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding the extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Department of Commerce patent regulations. A notice was published in the **Federal Register** at 81 FR 24103 on April 25, 2016. No comments were received.

DATES: Submit comments on or before October 12, 2016.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0095, Commerce Patent Regulations". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0095, Commerce Patent Regulations" on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0095, Commerce Patent Regulations.

Instructions: Please submit comments only and cite Information Collection 9000–0095, Commerce Patent Regulations, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, 202–969–7207 or email *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR subpart 27.3, Patents Rights under Government Contracts, implements the Department of Commerce regulation (37 CFR 401) based on chapter 18 of title 35 U.S.C., Presidential Memorandum on Government Patent Policy to the Heads of Executive Departments and Agencies, dated February 18, 1983, and Executive Order 12591, Facilitating Access to Science and Technology, dated April 10, 1987. Under the subpart, a contracting officer may insert clauses 52.227–11, Patent Rights-Ownership by the Contractor, or 52.227–13, Patent Rights-Ownership by the Government, in solicitations and contracts pertaining to inventions made in the performance of experimental, developmental, or research work.

In accordance with the clauses, a Government contractor must report all subject inventions to the contracting officer, submit a disclosure of the invention, and identify any publication, or sale, or public use of the invention (52.227–11(c), 52.227–13(e)(1)). The contracting officer may modify 52.227–11(e) or otherwise supplement the clause to require contractors to submit periodic or interim and final reports listing subject inventions (27.303(b)(2)(i) and (ii)). In order to ensure that subject inventions are reported, the contractor is required to establish and maintain effective procedures for identifying and disclosing subject inventions (52.227–11, Alternate IV; 52.227–13(e)(1)). In addition, the contractor must require his employees, by written agreements, to disclose subject inventions (52.227–11(e)(2); 52.227–13(e)(4)). The contractor also has an obligation to utilize the subject invention, and agree to report, upon request, the utilization or efforts to utilize the subject invention (27.302(e); 52.227–11(f)).

B. Annual Reporting Burden

Respondents: 3759.
Responses per Respondent: 3.8.
Total Responses: 14,338.
Hours per Response: 4.0.
Total Burden Hours: 57,352.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration (GSA), Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0095, Commerce Patent Regulations, in all correspondence.

Dated: September 6, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–21790 Filed 9–9–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–0852]

Agency Forms Undergoing Paperwork Reduction Act Review

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period; withdrawal.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) announces the withdrawal of the notice published under the same title on August 25, 2016 for public comment.

DATES: Effective September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: On August 25, 2016 CDC published a notice in the **Federal Register** titled "Agency Forms Undergoing Paperwork Reduction Act Review" (Vol. 81, No. 165 FR Doc. 2016–20366, Pages 58513–58514). This notice was published prematurely and inadvertently. The notice is being withdrawn immediately for public comment. A new notice will be published at a later date for public comment.

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–21884 Filed 9–9–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–16ARH]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Poison Center Collaborations for Public Health Emergencies—NEW—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Centers for Disease Control and Prevention (CDC) is requesting a three-year approval for a new generic information collection request (Generic ICR) plan titled "Poison Center Collaborations for Public Health Emergencies."

CDC's key partner, the American Association of Poison Control Centers (AAPCC), is a national network of 55 poison centers working to prevent and treat poison exposures. The goal for this new Generic ICR is to create a timely mechanism to allow poison centers, in collaboration with CDC, to obtain critical exposure and health information during public health emergencies. This information is not captured during initial poison center calls about triage and treatment of potential poison exposures. Additional data collections are needed quickly to further characterize exposures, risk factors, and illnesses.

When a public health emergency of interest to CDC and AAPCC occurs, the CDC and AAPCC hold a meeting to mutually decide whether the incident needs further investigation. For a public health emergency to be selected for call-back, adverse health effects must have occurred and a response is needed to prevent further morbidity and mortality. The event must meet the criteria below:

(1) The event is a public health emergency causing adverse health effects.

(2) Timely data are urgently needed to inform rapid public health action to prevent or reduce injury, disease, or death.

(3) The event is characterized by a natural or man-made disaster, contaminated food or water, a new or existing consumer product, or an emerging public health threat.

(4) The event has resulted in calls to a poison center, and the poison center agrees to conduct the call-back data collection.

(5) The event is domestic.

(6) Data collection will be completed in 60 days or less.

Trained poison center staff will conduct the call-back telephone survey, after administering consent.

Respondents will include individuals who call poison centers about exposures related to the select public health emergencies. These respondents include adults, 18 years and older; adolescents, 15 to less than 18 years; and parents or guardians on behalf of their children less than 15 years of age.

The total estimate of 300 annual respondents is based on poison center experience which assumes two incidents per year with approximately 150 respondents per event. The average burden per respondent is approximately 40 minutes for the call-back questionnaire. We anticipate a total annualized burden of 200 hours.

There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Adult Poison Center Callers	Sample Questionnaire—Adults	210	1	40/60
Adolescent Poison Center Callers	Sample Questionnaire—Adolescent	30	1	40/60
Parent or Guardian Poison Center Callers	Sample Questionnaire—Parent or Guardian	60	1	40/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–21885 Filed 9–9–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–588, CMS–10146, CMS–10185, CMS–10261, and CMS–10631]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: The necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *October 12, 2016.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806, *OR,* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Electronic Funds Transfer Authorization Agreement; *Use:* The information is needed to allow providers to receive funds electronically in their bank accounts. *Form Number:* CMS–588 (OMB control number: 0938–0626); *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 45,807; *Total Annual Responses:* 45,807; *Total Annual Hours:* 22,906. (For policy questions regarding this collection contact Kimberly McPhillips at 410–786–4645.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Part D Reporting Requirements and Supporting Regulations; *Use:* Data collected via Medicare Part D Reporting Requirements will be an integral resource for oversight, monitoring, compliance and auditing activities necessary to ensure quality provision of the Medicare Prescription Drug Benefit to beneficiaries. For all reporting sections, data are reported electronically to CMS. Each reporting section is reported at one of the following levels: Contract (data should be entered at the H#, S#, R#, or E# level) or Plan (data

should be entered at the Plan Benefit Package (PBP level, *e.g.* Plan 001 for contract H#, R#, S#, or E). Sponsors should retain documentation and data records related to their data submissions. Data will be validated, analyzed, and utilized for trend reporting by the Division of Clinical and Operational Performance (DCOP) within the Medicare Drug Benefit and C&D Data Group. If outliers or other data anomalies are detected, DCOP will work in collaboration with other Divisions within CMS for follow-up and resolution. For CY2017 Reporting Requirements, the following 7 reporting sections will be reported and collected at the Contract-level or Plan-level: Enrollment and Disenrollment, Retail, Home Infusion, and Long-Term Care Pharmacy Access, Medication Therapy Management (MTM) Programs, Grievances, Improving Drug Utilization Review Controls, Coverage Determinations and Redeterminations, and Employer/Union Sponsored Sponsors. *Form Number:* CMS–10185 (OMB control number: 0938–0992); *Frequency:* Annually and semi-annually; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 561; *Total Annual Responses:* 11,438; *Total Annual Hours:* 14,750. (For policy questions regarding this collection contact Chanelle Jones at 410–786–8008.)

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Part C Medicare Advantage Reporting Requirements and Supporting Regulations in 42 CFR 422.516(a); *Use:* Medicare Advantage Organizations (MAOs) must have an effective procedure to develop, compile, evaluate, and report to CMS, to its enrollees, and to the general public, at the times and in the manner that CMS requires, and while safeguarding the confidentiality of the doctor-patient relationship, statistics and other information with respect to: The cost of its operations; the patterns of service utilization; the availability, accessibility, and acceptability of its services; to the extent practical, developments in the health status of its enrollees; information demonstrating that the MAO has a fiscally sound operation; and other matters that CMS may require. CMS also has oversight authority over cost plans which includes establishment of reporting requirements. This revision would add five new data elements to the reporting section: Organization Determinations and Reconsiderations. These new data elements are needed to obtain more information about case reopenings. The revision would also suspend the Sponsor Oversight of Agents reporting section beginning 2017 so that the reporting section can be reassessed based on burden and usage. *Form Number:* CMS–10261 (OMB control number: 0938–1054); *Frequency:* Yearly and Semi-annually; *Affected Public:* Private sector (Business or other For-profits); *Number of Respondents:* 544; *Total Annual Responses:* 3,508; *Total Annual Hours:* 160,215. (For policy questions regarding this collection contact Terry Lied at 410–786–8973.)

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Notice of Denial of Medicare Prescription Drug Coverage; *Use:* The notice provides information to enrollees when prescription drug coverage has been denied, in whole or in part, by their Part D plans. The notice must be readable, understandable, and state the specific reasons for the denial. The notice must also remind enrollees about their rights and protections related to requests for prescription drug coverage and include an explanation of both the standard and expedited redetermination processes and the rest of the appeal process. *Form Number:* CMS–10146 (OMB control number: 0938–0976); *Frequency:* Occasionally; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 580; *Total Annual Responses:* 1,902,055; *Total Annual Hours:* 475,514. (For policy questions regarding this collection contact Amber Casserly at 410–786–0976.)

5. *Type of Information Collection Request:* New collection (request for a new OMB control number); *Title of Information Collection:* The PACE Organization Application Process in 42 CFR part 460; *Use:* In general, Programs of All-Inclusive Care for the Elderly (PACE) services are provided through a PACE Organization (PO). An entity wishing to become a PO must submit an application to CMS that describes how the entity meets all the requirements in the PACE program. An entity's application must be accompanied by an assurance from the State Administering Agency (SAA) of the State in which the PO is going to be located.

Initial application requirements for the PACE program are currently set forth in 42 CFR 460.12 and in the PACE Manual, Ch. 17. Until recently, the submission of initial and service area expansion (SAE) PACE applications and supporting information was in paper format. These applications are often hundreds of pages long, expensive to reproduce and transmit, and administratively inefficient, as staff reviewing different parts of the application are located in different physical locations and must receive hard copies of the material. However, beginning in 2016, initial PACE applications are being submitted via a new automated, electronic submission process. As with initial applications, an application also must be submitted for a PO that seeks to expand its service area and/or add a new service site, and with OMB approval, an automated application process will now also be required of PACE organizations submitting service area expansion applications.

While this collection is being submitted to OMB as a "New" package, the collection is not new. The collection is currently approved by OMB under control number 0938–0790 (CMS–R–244). Based on internal review we intend to remove the application from that package but, before doing so, we need approval of the application under a new OMB control number. This will avoid lapses in OMB's approval along with any violations of the PRA.

As is, the currently approved CMS–R–244 package is lengthy and somewhat time consuming to review. We believe the change will help streamline the public and OMB's review of the application as well as the remaining requirements and burden under CMS–R–244. The 60-day notice published in the **Federal Register** on December 8, 2015 (80 FR 76193). The 30-day notice published on May 2, 2016 (81 FR 26234). Both published under CMS–R–244. We are republishing the 30-day notice under the new CMS ID number (CMS–10631) and the tentative OMB control number (0938–New). Otherwise, all changes are nonsubstantive.

Form Number: CMS–10631 (OMB control number: 0938–New); *Frequency:* Once and occasionally; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions) and State, Local, or Tribal Governments; *Number of Respondents:* 730; *Total Annual Responses:* 84; *Total Annual Hours:* 4,576. (For policy questions regarding this collection contact Debbie Vanhoven at 410–786–6625.)

Dated: September 7, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–21873 Filed 9–9–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2016–N–0628; FDA–2012–N–0306; FDA–2002–N–0323; FDA–2012–N–0427; FDA–2012–N–0536; FDA–2012–N–0560; FDA–2015–N–3662; FDA–2012–N–0976; FDA–2013–N–0297; FDA–2012–N–1203; FDA–2011–D–0893; FDA–2014–N–0189; FDA–2012–N–1210]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.* An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
Reporting Associated with New Animal Drug Applications	0910–0032	8/31/2019
Administrative Detention and Banned Medical Devices	0910–0114	8/31/2019
Registration of Food Facilities	0910–0502	8/31/2019
Inspection by Accredited Persons Program Under the Medical Device User Fee and Modernization Act of 2002	0910–0510	8/31/2019
Medical Device User Fee Cover Sheet—FDA Form 3601	0910–0511	8/31/2019
Guidance on Informed Consent for in Vitro Diagnostic Studies Using Leftover Human Specimens That Are Not Individually Identifiable	0910–0582	8/31/2019
Guidance for Reagents for Detection of Specific Novel Influenza A Viruses	0910–0584	8/31/2019
Guidance: Emergency Use Authorization of Medical Products	0910–0595	8/31/2019
Prevention of *Salmonella* Enteritidis in Shell Eggs During Production—Recordkeeping and Registration Provisions	0910–0660	8/31/2019
Information to Accompany Humanitarian Device Exemption Applications and Annual Distribution Number Reporting Requirements	0910–0661	8/31/2019
Guidance for Center for Devices and Radiological Health Appeals Processes	0910–0738	8/31/2019
Deeming Tobacco Products To Be Subject to the FD&C Act	0910–0768	8/31/2019
Food Labeling: Revision of the Nutrition Facts Label and Supplement Facts Label	0910–0813	7/31/2019

Dated: September 6, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21877 Filed 9–9–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Request for Nominations for Voting Members on a Public Advisory Committee; Tobacco Products Scientific Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on the Tobacco Products Scientific Advisory Committee, Office of Science, Center for Tobacco Products.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Nominations received on or before November 14, 2016 will be given first consideration for membership on the Tobacco Products Scientific Advisory Committee. Nominations received after November 14, 2016 will be considered for nomination to the committee as later vacancies occur.

ADDRESSES: All nominations for membership should be sent electronically by logging into the FDA Advisory Nomination Portal: *http://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002.

FOR FURTHER INFORMATION CONTACT: *Regarding all nomination questions for membership, the primary contact is:* Caryn Cohen, Office of Science, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1373 (choose Option 5), *TPSAC@fda.hhs.gov.*

Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site by using the following link: *http://www.fda.gov/AdvisoryCommittees/default.htm.*

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting members on the Tobacco Products Scientific Advisory Committee.

I. General Description of the Committee Duties

The Tobacco Products Scientific Advisory Committee (the Committee) advises the Commissioner of Food and Drugs (the Commissioner) or designee in discharging responsibilities related to the regulation of tobacco products. The Committee reviews and evaluates safety, dependence, and health issues relating to tobacco products and provides appropriate advice, information, and recommendations to the Commissioner.

II. Criteria for Voting Members

The Committee consists of 12 members including the Chair. Members and the Chair are selected by the Commissioner or designee from among individuals knowledgeable in the fields of medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products. Almost all non-Federal members of this committee serve as Special Government Employees. The Committee includes nine technically qualified voting members, selected by the Commissioner or designee. The nine voting members include seven members who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty. The nine voting members also include one member who is an officer or employee of a State or local government or of the Federal Government, and one member who is a representative of the general public. Members will be invited to serve for terms of up to 4 years.

III. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on the advisory committee. Self-nominations are also accepted. Nominations must include a current, complete résumé or curriculum vitae for each nominee, including current business address and/or home address, telephone number, and email address, if available. Nominations must also specify the advisory committee for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters related to financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 6, 2016.

Janice M. Soreth,

Acting Associate Commissioner, Special Medical Programs.

[FR Doc. 2016–21819 Filed 9–9–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–2565]

510(k) Third Party Review Program; Draft Guidance for Industry, Food and Drug Administration Staff, and Third Party Review Organizations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "510(k) Third Party Review Program." This draft guidance provides a comprehensive look into FDA's current thinking regarding the 510(k) Third Party (TP) Review Program authorized under section 523 of the Federal Food, Drug, and Cosmetic Act (FD&C Act). In an effort to encourage harmonization, this guidance proposes to refer to, for the purpose of the TP Review Program, where appropriate and consistent with the FD&C Act and other applicable laws and regulations, the elements from the International Medical Device Regulators Forum's regulatory assessment program called the Medical Device Single Audit Program. In addition, the Food and Drug Administration Safety and Innovation Act (FDASIA) requires FDA to establish and publish in the **Federal Register** criteria to reaccredit and deny reaccreditation of TP Review Organizations. Those criteria, including others, are described in this draft guidance. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by January 10, 2017. Submit written or electronic comments on the collection of information by November 14, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2016–D–2565 for the draft guidance entitled "510(k) Third Party Review Program." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled "510(k) Third Party (TP) Review Program" to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Stacy Cho, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5625, Silver Spring, MD 20993, 240–402–6158.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the TP Review Program is to implement section 523 of the FD&C Act (21 U.S.C. 360m). Section 523 authorizes FDA to accredit third parties to review premarket notification (510(k)) submissions and recommend the initial classification of certain devices. FDA's implementation of section 523 includes establishing a process of recognition of qualified third parties to conduct the initial review of 510(k) submissions for certain low-to-moderate risk devices eligible under the TP Review Program (formerly known as the Accredited Persons Program). The TP Review Program is intended to allow review of such devices by TP Review Organizations in order to provide manufacturers of these devices an alternative review process that may yield more rapid 510(k) decisions. TP Review Organizations conduct the equivalent of an FDA premarket review of a 510(k) submission, and then forward their reviews, recommendations, and 510(k) submissions to FDA for a decision concerning the substantial equivalence of a device.

In February 2011, the International Medical Device Regulators Forum (IMDRF) was conceived to discuss future directions in medical device regulatory harmonization. The IMDRF is a voluntary group of medical device regulators from around the world, including representatives from the FDA, who have come together to build on the strong foundational work of the Global Harmonization Task Force on Medical Devices. The purpose of the IMDRF is to accelerate international medical device regulatory harmonization and convergence.

As one of its initial actions, the IMDRF developed the regulatory assessment program called the Medical Device Single Audit Program (MDSAP), which is outlined in a collection of documents (Ref. 1). The IMDRF MDSAP documents provide the fundamental building blocks of an auditing program by providing a common set of criteria to be utilized for the recognition and monitoring of entities that perform regulatory audits and other related functions.

In an effort to encourage harmonization, this draft guidance refers to the standards described in the IMDRF MDSAP documents as criteria FDA will consider for recognition, rerecognition, recognition denial, rerecognition denial, and recognition withdrawal of TP Review Organizations under the TP Review Program. In addition, the draft guidance does not use those statutory terms found under section 523 of the FD&C Act such as accredited persons, accredit, or reaccredit, but defines such terms as third party review organizations, recognition, and rerecognition as synonymous terms. FDA appreciates the advantages of harmonized international standards, and FDA believes that, when finalized, this guidance document will help to further bring the TP Review Program into harmony with such standards, as well as provide clarity and consistency for industry.

In addition, the goal of this draft guidance is to provide FDA's current thinking on the TP Review Program in the following areas: (1) TP Review Organizations review of 510(k) submissions; (2) requirements and recommendations for recognition and rerecognition of TP Review Organizations under the TP Review Program; (3) content and format of a TP Review Organization's application for initial recognition and rerecognition; and (4) suspension or withdrawal of recognition. Further, section 611 of FDASIA (Pub. L. 112–144) requires FDA to establish and publish in the **Federal Register** criteria to reaccredit and deny reaccreditation of TP Review Organizations. Those criteria are described in this draft guidance and if finalized, the guidance will represent FDA's implementation of section 611 of FDASIA.

Upon issuance, this draft guidance will replace the draft guidance entitled "Accreditation and Reaccreditation Process for Firms under the Third Party Review Program: Part I—Draft Guidance for Industry, Food and Drug Administration Staff, and Third Party Reviewers" issued on February 15, 2013 (Ref. 2).

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the current thinking of FDA on the "510(k) Third Party Review Program." It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* To receive the draft guidance entitled "510(k) Third Party Review Program," you may either send an email request to

CDRH-Guidance@fda.hhs.gov to receive an electronic copy of the document. Please use the document number 1500013 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3502), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices; Third-Party Review Under FDAMA

OMB Control Number 0910–0375—Revision

This draft guidance describes the recognition, rerecognition, recognition/rerecognition denial, and recognition withdrawal processes, including criteria that will be considered for such processes under the TP Review Program. The draft guidance provides how TP Review Organizations can apply for recognition and rerecognition, as well as describes the information to be kept, maintained, and submitted to FDA for the purpose of TP review. The guidance, when finalized, will revise the collections of information for FDA's Third Party Review Program, OMB control 0910–0375. For clarity, we also propose to revise the title of the information collection to "Third Party Review Program for Medical Device Premarket Notification." Additionally, to be consistent with the guidance, we propose to revise OMB control number 0910–0375 to use the terms recognition, rerecognition, recognition/rerecognition denial, and recognition withdrawal to refer to the process of accreditation, reaccreditation, accreditation/reaccreditation denial, and withdrawal of accreditation under section 523 of the FD&C Act.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Requests for recognition (current approval)	1	1	1	24	24
Requests for rerecognition (proposed)	4	1	4	24	96
510(k) reviews conducted by recognized third party review organizations (current approval)	10	26	260	40	10,400
Total					10,520

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per record-keeping	Total hours
510(k) reviews (current approval)	10	26	260	10	2,600
Recognition/Rerecognition documentation (proposed)	10	1	10	10	100
Total					2700

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates from past experiences regarding the recognition and rerecognition processes that the application will take approximately 24 hours per respondent. This average is based upon estimates by FDA administrative and technical staff that are familiar with the recognition and rerecognition processes under the TP Review Program. FDA requests comments on these estimates and the methodology used to estimate the burdens.

Currently approved information collection:

- Reporting
  - ○ Requests for recognition: In the past 3 years, the Agency has averaged receipt of 1 application for recognition for third party 510(k) review.
  - ○ 510(k) reviews conducted by recognized TP Review Organizations: According to FDA's data in 2009, the number of 510(k)s submitted for third party review is approximately 260 annually, which is on average 26 annual 510(k) reviews per each of the 10 recognized TP Review Organizations.
- Recordkeeping
  - ○ TP Review Organizations are expected to keep and maintain records related to their review of 510(k) submissions. According to 2009 data, the Agency anticipates approximately

260 submissions of 510(k)s for third party review per year.

Proposed revisions to the currently approved information collection:

- Reporting
  - ○ Requests for rerecognition: The Agency anticipates an average annual receipt of four applications for rerecognition for third party 510(k) review. The Agency reached this estimate by reviewing the number of existing recognized firms under the TP Review Program and anticipating the number of firms applying for rerecognition every 3 years.
- Recordkeeping
  - ○ The Agency expects TP Review Organizations to retain and maintain documentation related to recognition and rerecognition.

The respondents for this information collection are private sector, for-profit firms seeking recognition and rerecognition.

The draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; collections of information for the device appeals processes have been approved under OMB control number 0910–0738.

V. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**), and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register** but Web sites are subject to change over time.

1. International Medical Device Regulators Forum's Medical Device Single Audit Program documents, available at *http://imdrf.org/documents/documents.asp.*
2. FDA Draft Guidance entitled "Accreditation and Reaccreditation Process for Firms under the Third Party Review Program: Part I," February 15, 2013, available at *http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM339697.pdf.*

Dated: September 6, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–21876 Filed 9–9–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, October 26, 2016, 11:00 a.m. to October 26, 2016, 5:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, 4W034, Rockville, MD 20850 which was published in the **Federal Register** on August 25, 2016, 81 FR 58524.

The meeting notice is amended to change the date of the meeting to November 15, 2016 from 11:00 a.m. to 5:00 p.m. The meeting is closed to the public.

Dated: September 6, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21786 Filed 9–9–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel R13 Conference Grant Review.

Date: October 11, 2016.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Bratin K. Saha, Ph.D., Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20892–9750, 240–276–6411 *sahab@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Cancer Tissue Engineering Collaborative: Enabling Biomimetic Tissue-Engineered Technologies for Cancer Research (U01).

Date: October 14, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W260, Rockville, MD 20892–9750 240–276–5856, *nadeem.khan@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Cooperative Agreement to Develop Targeted Agents for use with Systemic Agents Plus Radiotherapy (U01).

Date: October 21, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W030, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Thomas A. Winters, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W412, Rockville, MD 20892–9750, 240–276–6386, *twinters@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group Subcommittee F—Institutional Training and Education.

Date: October 24–25, 2016.

Time: 7:30 p.m. to 3:45 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Timothy C. Meeker, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W606, Rockville, MD 20892–9750, 240–276–6464, *meekert@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI Clinical and Translational, R21: SEP–7.

Date: October 27, 2016.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Caron A. Lyman, Ph.D., Chief, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W126, Rockville, MD 20892–9750, 240–276–6348, *lymanc@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Multilevel Interventions in Cancer Care Delivery.

Date: October 28, 2016.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W030, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Thomas A. Winters, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W412, Rockville, MD 20892–9750, 240–276–6386, *twinters@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Imaging, Radiotherapy, and Theranostics (R21).

Date: November 2, 2016.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Christopher L. Hatch, Ph.D., Chief, Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20892–9750, 240–276–6454, *ch29v@nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee J—Career Development.

Date: November 3, 2016.

Time: 8:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Tushar Deb, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W624, Rockville, MD 20892–9750, 240–276–6132, *tushar.deb@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel NCI Provocative Questions—PQ9.

Date: November 9, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W034, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Zhiqiang Zou, MD, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W242, Rockville, MD 20892–9750, 240–276–6372, *zouzhiq@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI Clinical and Translational R21: SEP–3.

Date: November 15, 2016.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W624, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Tushar Deb, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W624, Rockville, MD 20892–9750, 240–276–6132, *tushar.deb@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel SBIR Bridge Awards.

Date: December 7, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 4W032/034, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Kenneth L. Bielat, Ph.D., Scientific Review Officer Research and Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W244, Rockville, MD 20892–9750, 240–276–6373, *bielatk@mail.nih.gov.*

Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 6, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21785 Filed 9–9–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; International Center of Excellence for Malaria Research (U19).

Date: October 5–6, 2016.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yong Gao, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G13B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Rockville, MD 20892–7616, (240) 669–5048, *yong.gao@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 2, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21788 Filed 9–9–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel NIDCR Clinical Trials & Studies SEP.

Date: October 11, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Morrison Clark Hotel, 1015 L Street NW., Washington, DC 20001.

Contact Person: Crina Frincu, Ph.D., Scientific Review Officer, Scientific Review

Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd., Suite 662, Bethesda, MD 20892, *cfrincu@mail.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel DSR Member Conflict.

Date: October 17, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Latarsha J. Carithers, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCR, 6701 Democracy Boulevard, Suite 672, Bethesda, MD 20892, 301–594–4859, *latarsha.carithers@nih.gov.*

Name of Committee: NIDCR Special Grants Review Committee NIDCR DSR Standing Study Section.

Date: October 20–21, 2016.

Time: 8:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel Oral Immune System Plasticity in Chronic HIV Infection Under Treatment and Oral Co-Infections.

Date: October 25, 2016.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Latarsha J. Carithers, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCR, 6701 Democracy Boulevard, Suite 672, Bethesda, MD 20892, 301–594–4859, *latarsha.carithers@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel NIDCR DOCTRC Stage 2 RFA.

Date: November 1, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue NW., Washington, DC 20036.

Contact Person: Crina Frincu, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd., Suite 662, Bethesda, MD 20892, *cfrincu@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 6, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21789 Filed 9–9–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, October 24, 2016, 11:00 a.m. to October 24, 2016, 3:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, 6W030, Rockville, MD 20850 which was published in the **Federal Register** on August 16, 2016, 81 FR 54582.

The meeting notice is amended to change the name of the meeting to Oncology Co-Clinical Imaging Research. The meeting is closed to the public.

Dated: September 6, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21787 Filed 9–9–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Bioengineering of Neuroscience, Vision and Low Vision Technologies Study Section.

Date: October 3–4, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Robert C. Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—A Study Section.

Date: October 6–7, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David B. Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@mail.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.

Date: October 10–11, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–435–1236, *zhaow@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Prokaryotic Cell and Molecular Biology Study Section.

Date: October 10–11, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kinzie Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: Dominique Lorang-Leins, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5108, MSC 7766, Bethesda, MD 20892, 301.326.9721, *Lorangd@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PA16–200: Bioengineering Sciences and Technologies AREA (R15) Review.

Date: October 11, 2016.

Time: 7:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Grand Chicago Riverfront, 71 East Wacker Drive, Chicago, IL 60601.

Contact Person: Wenchi Liang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301–435–0681, *liangw3@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Molecular and Cellular Hematology Study Section.

Date: October 11–12, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6183, MSC 7804, Bethesda, MD 20892, 301–495–1213, *espinozala@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 6, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–21784 Filed 9–9–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Confidentiality of Alcohol and Drug Abuse Patient Records—(OMB No. 0930–0092)—Revision

Statute (42 U.S.C. 290dd–2) and regulations (42 CFR part 2) require federally conducted, regulated, or directly or indirectly assisted alcohol and drug abuse programs to keep alcohol and drug abuse patient records confidential. Information requirements are (1) written disclosure to patients about Federal laws and regulations that protect the confidentiality of each patient, and (2) documenting "medical personnel" status of recipients of a disclosure to meet a medical emergency. Annual burden estimates for these requirements are summarized in the table below:

ANNUALIZED BURDEN ESTIMATES

	Annual number of respondents [1]	Responses per respondent	Total responses	Hours per response	Total hour burden
Disclosure					
42 CFR 2.22	11,770	147	[2] 1,725,625	.20	345,125
Recordkeeping					
42 CFR 2.51	11,770	2	23,540	.167	3,931
Total	11,770		1,749,165		349,056

[1] The number of publicly funded alcohol and drug facilities from SAMHSA's 2015 National Survey of Substance Abuse Treatment Services (N–SSATS).

[2] The average number of annual treatment admissions from SAMHSA's 2012–2014 Treatment Episode Data Set (TEDS).

Written comments and recommendations concerning the proposed information collection should be sent by October 12, 2016 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2016–21844 Filed 9–9–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0067]

Sector Outreach and Programs Division Online Meeting Registration Tool

AGENCY: National Protection and Programs Directorate, DHS

ACTION: 30-day notice and request for comments; Reinstatement of Information Collection Request: 1670–0019.

SUMMARY: The Department of Homeland Security (DHS), National Protection and Programs Directorate (NPPD), Office of Infrastructure Protection (IP), Sector Outreach and Programs Division (SOPD), will submit the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. NPPD is soliciting comments concerning Renewal Information Collection Request, Sector Outreach and Programs Division Online Meeting Registration Tool. DHS previously published this ICR in the **Federal Register** on June 01, 2016 for a 60-day public comment period. DHS received no comments. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until October 12, 2016. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory

Affairs, OMB. Comments should be addressed to OMB Desk Officer, Department of Homeland Security, Office of Civil Rights and Civil Liberties. Comments must be identified by DHS–2013–0067 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Email: oira_submission@omb.eop.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 395–5806

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

FOR FURTHER INFORMATION CONTACT: Michael Bowen DHS/NPPD/IP/SOPD/, *Michael.Bowen@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: On behalf of DHS, NPPD/IP manages the Department's program to protect the Nation's 16 critical infrastructure sectors by implementing the National Infrastructure Protection Plan (NIPP) 2013 Partnering for *Critical Infrastructure Security and Resilience.* Under Presidential Policy Directive 21 on *Critical Infrastructure Security and Resilience* (February 2013), each sector is assigned a Sector Specific Agency (SSA) to oversee Federal interaction with the array of sector security partners, both public and private. SSAs are responsible for leading unified public-private sector efforts to develop, coordinate, and implement a comprehensive physical, human, and cybersecurity strategy for its assigned sector. The SOPD executes the SSA responsibilities for the six critical infrastructure sectors assigned to IP: Chemical; Commercial Facilities; Critical Manufacturing; Dams; Emergency Services; and Nuclear Reactors, Materials, and Waste.

The mission of SOPD is to enhance the resiliency of the Nation by leading the unified public-private sector effort to ensure its assigned critical infrastructure are prepared, secure, and safe from terrorist attacks, natural disasters, and other incidents. To achieve this mission, SOPD leverages the resources and knowledge of its critical infrastructure sectors to develop and apply security initiatives that result in significant benefits to the Nation.

Each SOPD branch builds sustainable partnerships with its public and private sector stakeholders to enable more effective sector coordination, information sharing, and program development and implementation. These partnerships are sustained through the Sector Partnership Model, described in the NIPP 2013, pages 10–12.

Information sharing is a key component of the NIPP Partnership Model, and DHSsponsored conferences are one mechanism for information sharing. To facilitate conference planning and organization, SOPD established an event registration tool for use by all of its branches. The information collection is voluntary and is used by the SSAs within SOPD. The six SSAs within SOPD use this information to register public and private sector stakeholders for meetings hosted by the SSA. SOPD will use the information collected to reserve space at a meeting for the registrant, contact the registrant with a reminder about the event, develop meeting materials for attendees, determine key topics of interest, and efficiently generate attendee and speaker nametags. Additionally, it will allow SOPD to have a better understanding of the organizations participating in the critical infrastructure protection partnership events. By understanding who is participating, the SSA can identify portions of a sector that are underrepresented, and the SSA could then target that underrepresented sector element through outreach and awareness initiatives.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate, Office of Infrastructure Protection, Sector Outreach and Programs Division.

Title: Sector Outreach and Programs Division Online Meeting Registration Tool.

OMB Number: 1670–0019.

Frequency: Annually.

Affected Public: Federal, State, local, tribal, and territorial government personnel; private sector members.

Number of Respondents: 3,000 respondents (estimate).

Estimated Time per Respondent: 3 minutes.

Total Burden Hours: 150 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $6,000.

Total Burden Cost (operating/maintaining): $11,380.

Dated: September 6, 2016.

David Epperson,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2016–21852 Filed 9–9–16; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5946–N–02]

Notice of Regulatory Waiver Requests Granted for the Second Quarter of Calendar Year 2016

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on April 1, 2016, and ending on June 30, 2016.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Associate General Counsel for Regulations, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10282, Washington, DC 20410–0500, telephone 202–708–3055 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the second quarter of calendar year 2016.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;
2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;
3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:
    a. Identify the project, activity, or undertaking involved;
    b. Describe the nature of the provision waived and the designation of the provision;
    c. Indicate the name and title of the person who granted the waiver request;
    d. Describe briefly the grounds for approval of the request; and
    e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from April 1, 2016 through June 30, 2016. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the second quarter of calendar year 2016) before the next report is published (the third quarter of calendar year 2016), HUD will include any additional waivers granted for the second quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: September 2, 2016.

Tonya T. Robinson,

Principal Deputy General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development April 1, 2016 Through June 30, 2016

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory Waivers Granted by the Office of Community Planning and Development
II. Regulatory Waivers Granted by the Office of Housing
III. Regulatory Waivers Granted by the Office of Public and Indian Housing

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR 58.22(a).

Project/Activity: The Greater Dayton Premier Management Metropolitan Housing Authority (GDPM) and the City of Kettering requested a waiver for the acquisition of 557 Corona Avenue in Kettering, Ohio. The project, funded by HOME will consist of acquisition and rehabilitation of three existing, vacant, and foreclosed buildings, providing 12 additional units of housing.

Nature of Requirement: HUD's regulation at 24 CFR 58.22(a) establishes limitations on activities pending clearance. Under the regulation, neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in § 58.1(b) on an activity or project until HUD or the State has approved the recipient's request for relief of funds (RROF) and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in § 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

Granted By: Harriet Tregoning, Principal Assistant Secretary for Community Planning and Development.

Date Granted: April 27, 2016.

Reason Waived: The project will further the HUD mission and will advance HUD program goals to develop viable, quality communities and affordable housing; The Greater Dayton Premier Management Metropolitan Housing Authority (GDPM) and the city unknowingly violated the regulation; no HUD funds were committed; and based on the environmental assessments and the HUD field inspection, granting the waiver will not result in any unmitigated, adverse environmental impact.

Contact: Ashley Bechtold, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7212, Washington, DC 20410, telephone (202) 402–6298.

- *Regulation:* 24 CFR 91.105(c)(2), 24 CFR 570.201(e)(1), and 24 CFR 570.207(b)(3).

Project/Activity: Harris County, TX.

Nature of Requirement: The regulations at 24 CFR 91.105(c)(2), 24 CFR 570.201(e)(1), and 24 CFR 570.207(b)(3) require a 30-day public comment period prior to the implementation of a substantial amendment, limit the amount of Community Development Block Grant (CDBG) funds used for public services to no more than 15 percent of each grant, and prohibit CDBG funds from being used for the new construction of housing, respectively.

Granted By: Harriet Tregoning, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 28, 2016.

Reason Waived: The county was affected by severe flooding April 17–24, 2016, causing substantial property damage. A Presidential Declared Disaster Declaration (FEMA–DR–4269) was issued for multiple counties, including Harris County, on April 25, 2016, which covers severe storms and flooding that occurred for the effective period of April 17–24, 2016. The waivers granted will allow Harris County to expedite recovery efforts for low and moderate income residents affected by the flooding; pay for additional support services for affected individuals and families, including, but not limited to, food, health, employment, and case management services to help county residents impacted by the flooding; and use CDBG funds for new housing construction to replace affordable housing units lost as a result of the storms and flooding.

Contact: Steve Johnson, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7282, Washington, DC 20410, telephone (202) 402–4548.

- *Regulation:* 24 CFR 92.251(c)-property standards; 24 CFR 92.504(d)-on-site inspections.

Project/Activity: In order to eliminate the redundant physical inspections required when a property is financed with multiple federal housing programs, HUD has been participating in a Physical Inspection Alignment Working Group. The Working Group, which includes representatives from HUD, U.S. Department of Agriculture (USDA), and Internal Revenue Service (IRS) funded programs, has developed a pilot program designed to align the physical inspection criteria and scheduling for Combined Funding Properties. There are 8 Pilot Grantees (State of Illinois, Commonwealth of Kentucky, State of Louisiana, State of Maryland, State of Minnesota, State of Missouri, State of New Mexico, State of North Carolina) and 38 Pilot Properties in the 2015 Physical Inspection Alignment Pilot Program. These Pilot Properties associated to this waiver are projects funded by the HOME Investment Partnerships (HOME) program and one or more of the Combined Funding Programs, which include the Department of Treasury's low-income housing tax credits (LIHTC), UDSA Section 515 Rural Rental Housing Program, FHA Multifamily Insurance Program, Section 811(Housing for the Disabled), Section 202 (Housing for the Elderly), Section 8 Project Based Rental Housing, and Rental Assistance Demonstration.

Nature of Requirement: The regulation at 24 CFR 92.251(c) requires that HOME-assisted rental projects must meet HUD's Housing Quality Standards throughout the period of affordability. The regulation at 24 CFR 92.504(d) requires that participating jurisdictions must perform on-site inspections of HOME-assisted rental housing in accordance with the requirements established in 24 CFR 92.504(d).

Granted By: Harriet Tregoning, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: April 20, 2016.

Reason Waived: The Pilot Program's goal is to eliminate redundant physical inspection requirements resulting when projects are funded by multiple federal housing programs. The lack of alignment increases program administration costs, often without a commensurate improvement in housing quality or program data collection. The elimination of multiple unnecessary inspections could lower the cost of oversight while maintaining housing quality. Waiver of the HOME property standards requirements at 24 CFR 92.251(c) and the on-site inspections requirements at 24 CFR 92.504(d) facilitates the participation of HOME grantees and HOME-funded rental projects in the 2015 Physical Inspection Alignment Pilot Program. This limited waiver applies only to Pilot Grantees for the period, January 1, 2015 through December 31, 2015, and is limited to Combined Funded Properties in the 2015 Physical Inspection Alignment Pilot Program.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7164, Washington, DC 20410, telephone (202) 708–2684.

- *Regulation:* 24 CFR 570.500(a).

Project/Activity: Erie County, NY.

Nature of Requirement: The CDBG regulation at 24 CFR 570.500(a) defines program income as gross income received by the recipient or a subrecipient directly generated from the use of CDBG funds.

Granted By: Nani A. Coloretti, Deputy Secretary, U.S. Department of Housing and Urban Development.

Date Granted: June 2, 2016.

Reason Waived: Erie County has a revolving loan fund that was initially capitalized with both CDBG grant funds and grant funds provided by the U.S. Department of Commerce, Economic Development Administration (EDA). Because of complex and conflicting Federal program requirements, the County found it difficult to comply with program requirements of both HUD and EDA. As a result, the fund became inactive. Both HUD and EDA recognized a long dormant fund does not benefit the community. Both agencies provided the County with technical assistance to separate the grant funds from the revolving loan fund, and make better use of these resources in accordance with each agency's program requirements. Decades of commingled funds and conflicting regulations made it impossible to calculate program income attributable to the use of CDBG funds during the revolving loan fund's active years. The waiver was granted to the extent necessary to allow Erie County to calculate CDBG program income based on its CDBG share of the entire revolving loan fund at the time of initial funding. This allowed the County to separate CDBG grant funds and CDBG program income from the revolving loan fund, and use these funds to carry out CDBG eligible activities for the benefit of the community. This also allowed the County to benefit from the use of EDA funds that may now be used to provide new economic development loans in accordance with EDA program requirements.

Contact: Steve Johnson, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7282, Washington, DC 20410, telephone (202) 402–4548.

- *Regulation:* 24 CFR 576.106(d).

Project/Activity: Community Action of Napa Valley/Rental Assistance, Napa, California.

Nature of Requirement: Provisions at 24 CFR 576.106(d)(1), limit rental assistance to equal to or less than the HUD-established FMR, as provided under 24 CFR part 888, and in compliance with the HUD-established rent reasonableness standard at 24 CFR 982.507. These requirements are intended to ensure that program participants can remain in their housing after their Emergency Solutions Grant (ESG) assistance ends and help ensure that the amount of ESG assistance provided for rental assistance is reasonable, while serving the greatest number of program participants possible.

Granted By: Harriet Tregoning, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 22, 2016.

Reason Waived: Community Action of Napa Valley (CANV) has demonstrated its inability to provide adequate rental assistance using the ESG program with the rising cost of rental units in Napa County and the decrease of Napa's Fair Market Rent (FMR) for a two-bedroom unit. The success rate for housing vouchers has fallen from 76 to 67 percent over the past year, while Napa reports an estimated 5- to 6-year wait for those on the Section 8 wait list, which is now closed. Local real estate agents report that there are up to 30 applications for every vacant unit and the unit vacancy rate is low. This waiver allows CANV to provide ESG rental assistance for two-, three-, and four-bedroom units up to 105 percent of the FMR.

Contact: Michael Roanhouse, Director, Program Coordination & Analysis Division, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7262, Washington, DC 20410, telephone (202) 402–4482.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR 219.220(b).

Project/Activity: Sun Tower, FHA Project Number 127–SH015, Yakima, Washington. Yakima First Baptist Homes, Incorporated (Owner) seeks approval to defer repayment of the Flexible Subsidy Operating Assistance Loan on the subject project.

Nature of Requirement: The regulation at 24 CFR 219.220(b) (1995), which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Properties, states "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project."

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: April 22, 2016.

Reason Waived: The owner requested and was granted a waiver of the requirement to repay the Flexible Subsidy Operating Assistance Loan in full when it became due. Deferring the loan payment preserves this affordable housing resource for an additional 40 years through the execution and recordation of a Rental Use Agreement.

Contact: Regina Aleksiewicz, Senior Account Executive, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., 6152, Washington, DC 20410, telephone (202) 402–2600.

- *Regulation:* 24 CFR 219.220(b) (1995).

Project/Activity: Clairmont Oaks, FHA Project Number 061–44–027T, Decatur, Georgia. The owner requested a partial deferral of repayment of the Flexible Subsidy Operating Assistance Loan on this project due to their inability to repay the loan in full upon prepayment of the 236 Loan.

Nature of Requirement: Section 219.220(b) (1995) governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects states "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project (Transfer of Physical Assets (TPA)) if the Secretary so requires at the time of approval of the TPA." Either of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy Loan would be repaid, in whole, at that time.

Granted By: Edward Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: June 15, 2016.

Reason Waived: The owner requested and was granted waiver of the requirement to partially defer repayment of the Flexible Subsidy Operating Assistance Loan to allow the much needed preservation and moderate rehabilitation of the project. The project will be preserved as an affordable housing resource of Decatur, Georgia.

Contact: John Ardovini, Restructuring Analyst, Office of Affordable Housing Preservation, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6222, Washington, DC 20410, telephone (202) 402–3001.

- *Regulation:* 24 CFR 219.220(b).

Project/Activity: Pine Grove Apartments, FHA Project Number 023–027NI, Taunton, Massachusetts. Two K Associates, Ltd. Partnership, MA (Owner) seeks approval to defer repayment of the Flexible Subsidy Operating Assistance Loan on the subject project.

Nature of Requirement: The regulation at 24 CFR 219.220(b) (1995), which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Properties, states "Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project."

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: June 16, 2016.

Reason Waived: The owner requested and was granted a waiver of the requirement to repay the Flexible Subsidy Operating Assistance Loan in full when it became due. Deferring the loan payment will preserve this affordable housing resource for an additional 40 years through the execution and recordation of a Rental Use Agreement.

Contact: Marilynne Hutchins, Senior Account Executive, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6174, Washington, DC 20410, telephone (202) 402–4323.

- *Regulation:* 24 CFR 242.72.

Project/Activity: Effingham County Hospital Authority (Effingham), FHA Project Number 061–13004, Springfield, Georgia. Effingham proposed a restructuring where the Owner is to lease the hospital facility to a separate operator, Effingham Hospital, Inc. (EHI).

Nature of Requirement: The regulation prohibits the leasing of a hospital in its entirety.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: June 1, 2016.

Reason Waived: The restructuring took place to comply with Georgia Hospital Authorities Law. The restructuring will permit Effingham to expand both geographically and programmatically to respond to challenges and changes in the healthcare delivery system without loss of any revenue sources that support the organization.

Contact: Shelley M. McCracken-Rania, Senior Financial Analyst, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 2247, Washington, DC 20410, telephone (202) 402–5366.

- *Regulation:* 24 CFR 242.72.

Project/Activity: Toombs County Hospital Authority (TCHA), FHA Project Number 061–13002, Vidalia, Georgia. As part of a Section 223(a)(7) application to refinance existing FHA-insured debt for Meadows Regional Medical Center (MRMC), the organization will restructure so that TCHA is the new Borrower and Owner. TCHA will lease the hospital facility to MRMC to operate.

Nature of Requirement: The regulation prohibits the leasing of a hospital in its entirety.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: June 1, 2016.

Reason Waived: The restructuring was needed to approve the proposed refinancing. The refinancing lowered the interest rate on the FHA-insured debt from 7.39% to below 4%.

Contact: Shelley M. McCracken-Rania, Senior Financial Analyst, Office of Housing, 451 7th Street SW., Room 2247, Washington, DC 20410, telephone (202) 402–5366.

- *Regulation:* 24 CFR 290.30(a).

Project/Activity: Howard Avenue Rehabilitation, FHA Project Number 012–57083 V and W, Brooklyn, New York. Howard Avenue Associates, L.P. (Owner) seeks approval to waive the non-competitive sale of two HUD-held multifamily mortgages.

Nature of Requirement: The regulation at 24 CFR 290.30(a), which governs the sale of HUD-held mortgages, states that "[e]xcept as otherwise provided in Section 290.31(a)(2), HUD will sell HUD-held multifamily mortgages on a competitive basis."

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: April 4, 2016.

Reason Waived: The owner requested and was granted a waiver of the non-competitive sale of two HUD-held multifamily mortgages. The waiver allows HUD to assign the mortgages to the Owner's new mortgagee to avoid paying mortgage recording tax in the State of New York.

Contact: Cindy Bridges, Senior Account Executive, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6168, Washington, DC 20410, telephone (202) 402–2603.

- *Regulation:* 24 CFR 290.30(a).

Project/Activity: 1018 East 163rd Street, FHA Project Number 012–57360 W, Bronx, New York. 1018 Development Company (Owner) seeks approval to waive the non-competitive sale of a HUD-held multifamily mortgage.

Nature of Requirement: The regulation at 24 CFR 290.30(a), which governs the sale of HUD-held mortgages, states that "[e]xcept as otherwise provided in Section 290.31(a)(2), HUD will sell HUD-held multifamily mortgages on a competitive basis."

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: June 13, 2016.

Reason Waived: The owner requested and was granted a waiver of the non-competitive sale of a HUD-held multifamily mortgage. A waiver allows the Department to assign the mortgage to the Owner's new mortgagee to avoid paying mortgage recording tax in the State of New York.

Contact: Susanna Oyewole, Account Executive, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6080, Washington, DC 20410, telephone (202) 402–6080.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Andres Duarte Terrace II, Duarte, CA, Project Number: 122–EE216/CA16–S101–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18-months from the date of issuance with limited exceptions up to 36 months, as approved by HUD on a case-by-case basis.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: June 1, 2016.

Reason Waived: Additional time was needed for the approval of the subordination agreement by the City of Duarte Housing Authority, and amendment of the Owner's limited partnership agreement.

Contact: Alicia Anderson, Branch Chief, Grants and New Funding, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410, telephone (202) 402–5787.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Middletown Homes 2009, Middletown, NJ, Project Number: 031–HD168/NJ39–Q101–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18-months from the date of issuance with limited exceptions up to 36 months, as approved by HUD on a case-by-case basis.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: June 15, 2016.

Reason Waived: Additional time was needed for the office to review the initial closing package.

Contact: Alicia Anderson, Branch Chief, Grants and New Funding, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410, telephone (202) 402–5787.

- *Regulation:* 24 CFR 891.165.

Project/Activity: Westminster Place Supported Independent Living, Philadelphia, PA, Project Number: 034–HD115/PA26–Q101–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18-months from the date of issuance with limited exceptions up to 36 months, as approved by HUD on a case-by-case basis.

Granted By: Edward L. Golding, Principal Deputy Assistant Secretary for Housing.

Date Granted: June 15, 2016.

Reason Waived: Additional time was needed to review the closing documents and to allow for unforeseen delays.

Contact: Alicia Anderson, Branch Chief, Grants and New Funding, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410, telephone (202) 402–5787.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR 5.801(c)(1) and 24 CFR 5.801(d)(1).

Project/Activity: Gateway Healthcare, Inc. (RI029).

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 6, 2016.

Reason Waived: Gateway Healthcare, Inc. (HA), a Section 8 only entity, and its Mainstream Voucher Program are an affiliate partner of the Lifespan Corporation (Lifespan). Lifespan has a FYE date of September 30, 2016. The HA requested an extension to submit its audited financial data for the fiscal year end (FYE) of June 30, 2015, to align with its affiliate partner Lifespan's FYE date of September 30, 2016. The additional time allowed the auditor necessary time to compile and complete Gateway Healthcare's required audited financial data submission to the Department. This Financial Assessment Sub System (FASS) audited financial submission waiver (extension) does not apply to Single Audit submissions to the Federal Audit Clearinghouse; the HA is required to meet the Single Audit due dates.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7908.

- *Regulation:* 24 CFR 5.216(h)(1).

Project/Activity: Vancouver Housing Authority in Vancouver, Washington, requested a waiver of 24 CFR 5.216(h)(1) so that it could admit homeless applicants prior to verifying Social Security Numbers (SSN).

Nature of Requirement: This regulation states that if the processing entity determines that the assistance applicant is otherwise eligible to participate in a program, the assistance applicant may retain its place on the waiting list for the program but cannot become a participant until it can provide a complete and accurate social security number (SSN) assigned to each member of the household.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 21, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow homeless families to provide SSN documentation to the processing entity within 90 calendar days from the date of admission to the program which is allowed for the Section 8 Moderate Rehabilitation Single Room Occupancy program for homeless individuals.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Des Moines Municipal Housing Agency in Des Moines, Iowa, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the fair market rent (FMR) for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 8, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202)708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Marion County Housing Authority in Salem, Oregon, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 8, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: San Diego Housing Commission in San Diego, California, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 8, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and

Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: San Diego Housing Commission in San Diego, California, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 8, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202)708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Boston Housing Authority in Boston, Massachusetts, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 12, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Sonoma County Housing Authority in Santa Rosa, California, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 18, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Howard County Housing in Columbia, Maryland, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 22, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of the City of Glendale in Glendale, California, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the fair market rent (FMR) for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 9, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of the County of Santa Cruz in Santa Cruz, California, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 17, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Lake County Housing Commission in Lower Lake, California, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 3, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Howard County Housing in Columbia, Maryland, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 7, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Colorado Department of Local Affairs in Denver, Colorado, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 13, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: County of Maui in Wailuku, Hawaii, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 13, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Boston Housing Authority in Boston, Massachusetts, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 14, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Kaua'I County Housing Authority in Lihu'e, Hawaii, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 14, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Waltham Housing Authority in Waltham, Massachusetts, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 15, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of Clackamas County in Oregon City, Oregon, requested a waiver of 24 CFR 982.505(d) so that it could approve an exception payment standard amount above 120 percent of the fair market rent (FMR) as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is no more than 120 percent of the FMR for the unit size.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 21, 2016.

Reason Waived: This regulation was waived as a reasonable accommodation to allow a disabled participant to receive housing assistance and pay no more than 40 percent of its adjusted income toward the family share.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 984.305(c)(1).

Project/Activity: The Housing Authority of Chelan County and City of Wenatchee in Wenatchee, Washington, requested a waiver of 24 CFR 984.305(c)(1) so that it could disburse escrow funds accumulated by a participant in the Family Self-Sufficiency (FSS) program. The FSS family was unable to complete its contract of participation due to being absorbed into the HCV program of a PHA that did not administer an FSS program.

Nature of Requirement: This regulation states the FSS escrow shall be paid to the participant when the contract of participation has been completed and at the time of contract completion the head of the FSS family submits to the PHA a certification that to the best of his or her knowledge and belief, no member of the FSS family is a recipient of welfare assistance.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 29, 2016.

Reason Waived: Although the FSS participant in question was unable to complete its contract of participation prior to being absorbed into the HCV program of the receiving PHA, the family was in compliance with the contract of participation and the move to the receiving PHA's jurisdiction was for good cause. In consideration of these circumstances, the waiver was granted so that escrow could be disbursed to the family without completing the contract of participation.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 985.101(a).

Project/Activity: Loveland Housing Authority (LHA) in Loveland, Colorado, requested a waiver of 24 CFR 985.101(a) so that it could submit its Section Eight Management Assessment Program (SEMAP) certification after the deadline.

Nature of Requirement: Section 985.101(a) states a PHA must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 13, 2016.

Reason Waived: This waiver was granted for the LHA's fiscal year ending December 31, 2015. The waiver was approved because of circumstances beyond the PHA's control and to prevent additional administrative burdens for the PHA and field office.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

- *Regulation:* 24 CFR 985.101(a).

Project/Activity: Winter Haven Housing Authority (WHHA) in Winter Haven, Florida, requested a waiver of 24 CFR 985.101(a) so that it could submit its Section Eight Management Assessment Program (SEMAP) certification after the deadline.

Nature of Requirement: Section 985.101(a) states a PHA must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year.

Granted By: Lourdes Castro Ramírez, Principal Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 8, 2016.

Reason Waived: This waiver was granted because for the WHHA's fiscal year ending September 30, 2015. The waiver was approved because of circumstances beyond the PHA's control and to prevent additional administrative burdens for the PHA and field office.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

[FR Doc. 2016–21867 Filed 9–9–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2016–N129; FXES11120200000–167–FF02ENEH00]

Receipt of an Application for an Incidental Take Permit for the American Burying Beetle, From American Electric Power, and Availability of Proposed Habitat Conservation Plan, Pittsburg County, Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: Under the Endangered Species Act of 1973, as amended (Act), we, the Fish and Wildlife Service (Service), have received an application for an incidental take permit (ITP) and a proposed habitat conservation plan (HCP) from American Electric Power in Pittsburg County, Oklahoma. Our low-effect screening form (LESF), which supports a categorical exclusion for the HCP under the National Environmental Policy Act (NEPA), is also available for review. The requested permit, which would be in effect for a period of 3 years, if granted, would authorize incidental take of the American burying beetle resulting from the construction of two segments of the Talawanda to McAlester electric transmission line.

DATES: *Comments:* To ensure consideration, please send your written comments by October 12, 2016.

ADDRESSES: *Obtaining Documents:*

- *Internet:* You may obtain copies of the draft low-effect screening form and draft HCP on the Service's Web site at *http://www.fws.gov/southwest/es/Oklahoma/*.
- *U.S. Mail:* Field Supervisor, Oklahoma Ecological Services Field Office, 9014 East 21st Street, Tulsa, OK 74129; telephone 918–382–4500. Please note that your request is in reference to the American Electric Power (AEP) LEHCP (TE01909C).
- *In-Person:* Copies of the draft low-effect screening form and draft HCP are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
  - ○ Department of the Interior, Natural Resources Library, 1849 C St. NW., Washington, DC 20240.
  - ○ U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 6034, Albuquerque, NM 87201.
  - ○ U.S. Fish and Wildlife Service, 9014 East 21st St., Tulsa, OK 74129; 918–382–4500 (phone); or 918–581–7467 (fax).

Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, NM 87103, Attention: Branch Chief, Environmental Review.

Comment submission: You may submit written comments by one of the following methods:

- *Electronically: fw2_hcp_permits@fws.gov.*
- *By hard copy:* U.S. Fish and Wildlife Service, 9014 East 21st St., Tulsa, OK 74129; calling 918–382–4500; or faxing 918–581–7467.

FOR FURTHER INFORMATION CONTACT: Jonna Polk, Field Supervisor, U.S. Fish and Wildlife Service, 9014 East 21st St., Tulsa, OK 74129; or by telephone at 918–382–4500.

SUPPLEMENTARY INFORMATION: Under the Act (16 U.S.C. 1531 *et seq.*), we have received an application for an ITP and a proposed HCP from AEP in Pittsburg County, Oklahoma. Our LESF, which supports a categorical exclusion for the HCP under NEPA (42 U.S.C. 4321, *et seq.*), is also available for review. The requested permit, which would be in effect for a period of 3 years, if granted, would authorize incidental take of the American burying beetle resulting from the construction of two segments of the Talawanda to McAlester electric transmission line.

Under NEPA, we advise the public that we have gathered the information necessary to determine impacts related to potential issuance of an ITP and have determined that the proposed action qualifies as a low-effect HCP and is categorically excluded from the NEPA process; and

In addition, the applicant has developed and proposes to implement its draft HCP, as part of the application for an ITP, which describes the measures the applicant has agreed to take to avoid, minimize, and mitigate the effects of the incidental take of American burying beetles (*Nicrophorus americanus;* ABB; covered species) to the maximum extent practicable pursuant to section 10(a)(1)(B) of the Act.

The requested permit would authorize incidental take of the ABB as a result of the construction of two segments along 2.11 miles of the Talawanda to McAlester transmission line in Pittsburg County, OK (Permit Area), as a result of activities associated with the applicant's construction and maintenance activities (covered activities). Such actions may require disturbance within potential American burying beetle habitat. American Electric Power has proposed to mitigate the impacts to 13.07 acres of suitable habitat for the American burying beetle, including 10.42 acres of temporary impacts, 2.65 acres of permanent cover change (changing of vegetative successional stage, but remaining as suitable ABB habitat), and 0.006 acres of permanent change (changing of ABB habitat from suitable to non-suitable). These habitat acres will be mitigated in perpetuity according to Service-approved mitigation ratios through the purchase of credits at an approved conservation bank for ABB. Additionally, avoidance and minimization measures will be implemented including limiting clearing in temporary work areas, relief of soil compaction, and revegetation of temporary and permanent cover change impacts with native vegetation after construction is completed.

Section 9 of the Act and its implementing regulations prohibit "take" of fish and wildlife species listed as threatened or endangered under section 4 of the Act. However, section 10(a) of the Act authorizes us to issue permits to take listed wildlife species where such take is incidental to, and not the purpose of, otherwise lawful activities and where the applicant meets certain statutory requirements.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Joy E. Nicholopoulos,

Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 2016–21412 Filed 9–9–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORE00000.L63340000.AL0000. 16XL1109AF. HAG 16–0214]

Notice of Public Meeting for the Northwest Oregon Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the Bureau of Land Management's (BLM) Northwest Oregon Resource Advisory Council (RAC) will meet as indicated below.

DATES: The RAC will meet on Thursday through Friday, October 13–14, 2016, from 9 a.m. to 5 p.m. and Thursday, October 20, 2016, from 9 a.m. to 5 p.m. The RAC members will review and select Secure Rural Schools Title II project proposals for the counties in Northwest Oregon. They will also receive an overview of the Record of Decision (ROD) for the Western Oregon Resource Management Plans (RMP) and consider recreation subcommittee work. The October 14 and 20 meetings will be held at the BLM Salem District Office, 1717 Fabry Rd SE., Salem, OR 97306. The October 13 meeting will be held at the BLM Eugene District Office, 3106 Pierce Parkway Suite E, Springfield, OR 97477. The public comment period will occur from 12:30 p.m. to 1:00 p.m. each meeting day.

FOR FURTHER INFORMATION CONTACT: Jennifer Velez, Coordinator for the Northwest Oregon RAC, 1717 Fabry Road SE., Salem, OR 97306, (541) 222–9241, *jvelez@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339 to contact the above individuals during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The fifteen-member Northwest Oregon RAC was chartered to serve in an advisory capacity concerning the planning and management of the public land resources located within the BLM's Salem and Eugene Districts. Members represent an array of stakeholder interests in the land and resources from within the local area and statewide. Planned agenda items include reviewing and voting on Secure Rural Schools project submissions for each county in Northwest Oregon. On each day of the three day meeting, members of the public will have the opportunity to make comments to the RAC during a public comment period. All advisory committee meetings are open to the public. Persons wishing to make comments during the public comment period should register in person with the BLM, at the meeting location, preceding that meeting day's comment period. Depending on the number of persons wishing to comment, the length of comments may be limited. The public may send written comments to the RAC at the Salem District office, 1717 Fabry Road SE., Salem, OR 97306. The BLM appreciates all comments.

Kim Titus,

Salem District Manager.

[FR Doc. 2016–21821 Filed 9–9–16; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORM00000.L63100000.HD0000. 16XL1116AF; HAG 16–0210]

Notice of Public Meeting for the Southwest Oregon Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, and the U.S.

Department of the Interior, Bureau of Land Management (BLM), the Southwest Oregon Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Southwest Oregon RAC will hold a public meeting Wednesday, October 12th, 2016 from 12:00 p.m. to 5:00 p.m. and Thursday, October 13th, 2016, from 8:00 a.m. to 4:00 p.m.

ADDRESSES: The Southwest Oregon RAC will meet at the Medford District Office, 3040 Biddle Road, Medford, OR 97504. The RAC will review and make recommendations on Secure Rural Schools and Community Self-Determination Act Title II project proposals. On Thursday, October 13th, the public comment period will occur from 8:15–9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Christina Beslin, Coordinator for the Southwest Oregon RAC, 3040 Biddle Rd., Medford, OR 97504, (541) 618–2371, *cbeslin@blm.gov,* or Jim Whittington, Public Affairs Specialist, 3040 Biddle Rd., Medford, OR 97504, (541) 618–2220, *jwhittin@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339 to contact the above individuals during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The fifteen-member Southwest Oregon RAC was chartered to serve in an advisory capacity concerning the planning and management of the public land resources located within the BLM's Medford, Roseburg and Lakeview Districts. Members represent an array of stakeholder interests in the land and resources from within the local area and statewide. Planned agenda items include reviewing and voting on Recreation Fee submissions for Roseburg in Southwest Oregon. On the second day members of the public will have the opportunity to make comments to the RAC during a public comment period. All advisory committee meetings are open to the public. Persons wishing to make comments during the public comment period should register in person with the BLM, at the meeting location, proceeding that meeting day's comment period. Depending on the number of persons wishing to comment, the length of comments may be limited. The public may send written comments to the RAC at the Medford District office, 3040 Biddle Rd., Medford, OR 97504. The BLM appreciates all comments.

Elizabeth Burghard,

Medford District Manager.

[FR Doc. 2016–21823 Filed 9–9–16; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–DEWA–21468; PX.DDEWA0009.00.1]

Boundary Adjustment at Delaware Water Gap National Recreation Area

AGENCY: National Park Service, Interior.

ACTION: Notification of Boundary Adjustment.

SUMMARY: The boundary of Delaware Water Gap National Recreation Area is adjusted to include two parcels of land totaling 27.85 acres, more or less. Fee simple interest in the land will be donated to the United States. The properties are located in Delaware Township, Pike County, and Smithfield Township, Monroe County, Pennsylvania, adjacent to the current boundary of Delaware Water Gap National Recreation Area.

DATES: The effective date of this boundary adjustment is September 12, 2016.

ADDRESSES: The map depicting this boundary adjustment is available for inspection at the following locations: National Park Service, Land Resources Program Center, Northeast Region, 200 Chestnut Street, Philadelphia, PA 19106, and National Park Service, Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Superintendent John J. Donahue, Delaware Water Gap National Recreation Area, 1978 River Road (Off US209), Bushkill, PA 18324, telephone (570) 426–2418.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 16 U.S.C. 460*o*–2(b), the boundary of Delaware Water Gap National Recreation Area is adjusted to include 27.82 acres of land, more or less, comprised of two parcels of land: 22.85 acres (Section 163.00, Block 01, Lot 23) in Delaware Township, Pike County, Pennsylvania; and 5 acres (Tax Parcel 16/1/1/57) in Smithfield Township, Monroe County, Pennsylvania. This boundary adjustment is depicted on Map No. 620/132,481 dated April 27, 2016.

16 U.S.C. 460*o*–2(b) states that the Secretary of the Interior may make adjustments in the boundary of Delaware Water Gap National Recreation Area by publication of the amended description thereof in the **Federal Register**: Provided, that the area encompassed by such adjusted boundary shall not exceed the acreage included within the detailed boundary first described in the **Federal Register** on June 7, 1977 (Vol. 42, No. 109, pp 29071–29103). This boundary adjustment does not exceed the acreage of the detailed boundary so described. The Conservation Fund will donate its fee interest in the land to the United States, as part of an agreement to help mitigate the effects of the upgrade and expansion of the existing Susquehanna-Roseland electric transmission line across approximately 4.3 miles of the national recreation area.

Dated: July 12, 2016.

Jonathan Meade,

Deputy Regional Director, Northeast Region.

[FR Doc. 2016–21792 Filed 9–9–16; 8:45 am]

BILLING CODE 4310–WV–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–552–553 and 731–TA–1308 (Final)]

Certain New Pneumatic Off-the-Road Tires From India and Sri Lanka; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–552–553 and 731–TA–1308 (Final) pursuant to the Tariff Act of 1930 ("the Act") to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from India[1] and Sri Lanka and less-than-fair-value imports from India of certain new pneumatic off-the-road-tires, provided for in subheadings 4011.20.10, 4011.20.50, 4011.61.00, 4011.62.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.93.40, 4011.93.80, 4011.94.40, 4011.94.80,

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[1] The Department of Commerce has preliminarily determined that imports of certain new pneumatic off-the-road tires from India are not being, or are not likely to be, sold in the United States at less than fair value.

8431.49.90, 8709.90.00, and 8716.90.10 of the Harmonized Tariff Schedule of the United States.[2] [3]

DATES: *Effective Date:* August 19, 2016.

FOR FURTHER INFORMATION CONTACT: Edward Petronzio (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in India and Sri Lanka of certain new pneumatic off-the-road-tires. The investigations were requested in petitions filed on January 8, 2016, by Titan Tire Corporation of Des Moines, Iowa ("Titan") and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC of Pittsburgh, Pennsylvania ("USW").

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Although the Department of Commerce has preliminarily determined that imports of certain new pneumatic off-the-road-tires from India are not being, or are not likely to be, sold in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b)[4] so that the final phase of the investigation may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on December 20, 2016, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Wednesday, January 04, 2017, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 29, 2016. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on January 3, 2017, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is December 28, 2016. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is January 11, 2017. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before January 11, 2017. On January 27, 2017, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before January 31, 2017, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's

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[2] Certain new pneumatic off-the-road-tires may also be imported under the following HTS provisions: 4011.99.45, 4011.99.85, 8424.90.90, 8431.20.00, 8431.39.00, 8431.49.10, 8431.49.90, 8432.90.00, 8433.90.50, 8503.00.95, 8708.70.05, 8708.70.25, 8708.70.45, and 8716.90.50.

[3] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as certain new pneumatic off-the-road tires. For a full description of the scope of these investigations, including product exclusions, see *Certain New Pneumatic Off-the-Road Tires from India: Negative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 55431, August 19, 2016.

[4] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 7, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–21847 Filed 9–9–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–981]

Certain Electronic Devices Containing Strengthened Glass and Packaging Thereof; Termination of an Investigation on the Basis of Withdrawal of the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 12), which terminated the investigation on the basis of withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 14, 2016, based on an amended complaint filed by Saxon Glass Technologies, Inc. of Alfred, New York ("Saxon"). 81 FR 1965 (Jan. 14, 2016). The amended complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain electronic devices containing strengthened glass and packaging thereof. The alleged violation of section 337 is based upon U.S. Trademark Registration No. 2,639,419, as well as common law trademark infringement and dilution. The notice of investigation named as the respondent Apple Inc. of Cupertino, California ("Apple"). 81 FR 1965. The Office of Unfair Import Investigations was also named as a party.

On July 25, 2016, Saxon moved to terminate the investigation in its entirety based upon withdrawal of the complaint. On July 27, 2016, Apple responded in opposition to the motion. On August 1, 2016, the Commission investigative attorney responded in support of the motion.

On August 10, 2016, the ALJ granted the motion as the subject ID (Order No. 12). The ALJ found that the motion complied with Commission Rules, and that extraordinary circumstances did not exist to prevent granting the motion. *Id.* at 2–3; *see* 19 CFR 210.21(a).

No petitions for review of the ID were filed. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 7, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–21848 Filed 9–9–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–16–032]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 16, 2016 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. No. 731–TA–808 (Third Review) (Hot-Rolled Carbon Steel Flat Products from Russia). The Commission is currently scheduled to complete and file its determination and views of the Commission on September 29, 2016.
5. *Outstanding action jackets:* None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier notification of this meeting was not possible.

By order of the Commission.

Issued: September 7, 2016.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2016–21918 Filed 9–8–16; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1334–1337 (Preliminary)]

Emulsion Styrene-Butadiene Rubber From Brazil, Korea, Mexico, and Poland

Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain emulsion styrene-butadiene rubber from Brazil, Korea, Mexico, and Poland, provided for in subheading 4002.19.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value ("LTFV").

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce ("Commerce") of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On July 21, 2016, Lion Elastomers LLC (Port Neches, Texas) and East West Copolymer, LLC (Baton Rouge, Louisiana) filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain emulsion styrene-butadiene rubber from Brazil, Korea, Mexico, and Poland. Accordingly, effective July 21, 2016, the Commission, pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)), instituted antidumping duty investigation Nos. 731–TA–1334–1137 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 27, 2016 (81 FR 49262). The conference was held in Washington, DC, on August 11, 2016, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)). It completed and filed its determinations in these investigations on September 6, 2016. The views of the Commission are contained in USITC Publication 4636 (September 2016), entitled *Emulsion styrene-butadiene rubber from Brazil, Korea, Mexico, and Poland: Investigation Nos. 731–TA–1334–1337 (Preliminary).*

By order of the Commission.

Issued: September 6, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–21815 Filed 9–9–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–16–031]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 12, 2016 at 4:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–545–547 and 731–TA–1291–1297 (Final) (Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom). The Commission is currently scheduled to complete and file its determinations and views of the Commission on September 26, 2016.
5. *Outstanding action jackets:* None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier notification of this meeting was not possible.

By order of the Commission.

Issued: September 7, 2016.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2016–21921 Filed 9–8–16; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–539 and 731–TA–1280–1282 (Final)]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Korea, Mexico, and Turkey; Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that an industry in the United States is materially injured by reason of imports of heavy walled rectangular welded carbon steel pipes and tubes from Korea, Mexico, and Turkey, provided for in subheadings 7306.61.10 and 7316.61.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV"), and that have been found by Commerce to be subsidized by the government of Turkey.[2]

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective July 21, 2015, following receipt of a petition filed with the Commission and Commerce by Atlas Tube, a division of Zekelman Industries, Inc. (Chicago, Illinois); Bull Moose Tube Company (Chesterfield, Missouri); EXLTUBE (North Kansas City, Missouri); Hannibal Industries, Inc. (Los Angeles, California); Independence Tube Corporation (Chicago, Illinois); Maruichi American Corporation (Santa Fe Springs, California); Searing Industries (Rancho Cucamonga, California); Southland Tube (Birmingham, Alabama); and Vest, Inc. (Los Angeles, California). The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of heavy walled rectangular welded carbon steel pipes and tubes from Turkey were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and that imports of heavy walled rectangular welded carbon steel pipes and tubes from Korea, Mexico, and Turkey were sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on March 15, 2016 (81 FR 13820). The hearing was held in Washington, DC, on July 14, 2016, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Meredith M. Broadbent and F. Scott Kieff dissenting.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on September 6, 2016. The views of the Commission are contained in USITC Publication 4633 (September 2016), entitled *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea, Mexico, and Turkey: Investigation Nos. 701–TA–539 and 731–TA–1280–1282 (Final).*

By order of the Commission.

Issued: September 6, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–21811 Filed 9–9–16; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Advisory Committee on Rules of Evidence, Judicial Conference of the United States.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a meeting on October 21, 2016. The meeting will be open to public observation but not participation.

DATES: October 21, 2016.

TIME: 8:30 a.m.–3:00 p.m.

ADDRESSES: Pepperdine University School of Law, 24255 Pacific Coast Highway, Malibu, CA 90263.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: September 6, 2016.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2016–21780 Filed 9–9–16; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Advisory Committee on Rules of Appellate Procedure, Judicial Conference of the United States.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a meeting on October 18, 2016. The meeting will be open to public observation but not participation.

DATES: October 18, 2016.

TIME: 9:00 a.m.–5:00 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Mecham Conference Center, Administrative Office of the United States Courts, One Columbus Circle NE., Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: September 6, 2016.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2016–21781 Filed 9–9–16; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Notice of Motion To Amend Consent Decree Under the Clean Water Act

On September 6, 2016, the Department of Justice filed a stipulated motion to amend a Consent Decree with the United States District Court for the Western District of Washington in the lawsuit entitled *United States* v. *Trident Seafoods Corporation,* Civil Action No. 11–1616RSL (the United States and Trident Seafoods Corporation, jointly, the "Parties"), proposing to modify certain injunctive measures required under the Consent Decree entered in this matter on June 18, 2012, resolving Trident's alleged violations of the Clean Water Act ("CWA" or "Act").

The Consent Decree ("CD") requires, among other measures intended to reduce discharges of seafood processing wastes from multiple Trident processing facilities in Alaska, that Trident build a fishmeal plant at its North Naknek, Alaska facility and, upon operating the fishmeal plant for one year, to eliminate discharges from its seafood processing facility. The Parties only recently realized that the CD, as written, prohibits any discharge from Trident's processing facility, a result that cannot be achieved even by state-of-the-art practices. The proposed Amendment would allow the facility to discharge waste that cannot practically be captured using state-of-the-art controls, *i.e.,* waste particles that pass through a 0.5 mm mesh screen. The proposed Amendment accurately reflects what the Parties intended at the time they reached settlement; employment of state-of-the-art discharge controls to achieve a discharge limit more stringent than that required by law. The Parties' failure to provide for this discharge in the original CD was inadvertent and the proposed Amendment corrects that oversight.

The publication of this notice opens a period for public comment on the proposed Amendment to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Trident Seafoods Corporation,* Civil Action No. 11–1616RSL., DJ Reference Number 90–5–1–1–2002/2.

All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent_decrees.html.* We will provide a paper copy of the Amendment to the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $2.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–21864 Filed 9–9–16; 8:45 am]

BILLING CODE 4410–16–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On September 6, 2016, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Alaska in *United States and the State of Alaska* v. *City of Palmer, Alaska*,. Civil Action No. 3:16–cv–00204–TMB.

The Consent Decree settles claims brought by the United States and the State of Alaska pursuant to the Clean Water Act, 33 U.S.C. 1319, and Alaska Statute 46.03.760, for violations of Defendant's National Pollutant Discharge Elimination System permit at Defendant's wastewater treatment plant in Palmer Alaska. Under the Consent Decree, Defendant will undertake extensive upgrades at its wastewater treatment plant which are designed to correct the alleged violations and pay a civil penalty of $192,162 to the United States and State of Alaska.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *City of Palmer, Alaska*, D.J. Ref. No. 90–5–1–1–11214. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–21855 Filed 9–9–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On August 24, 2016, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of Illinois in the lawsuit entitled *United States and State of Illinois* v. *East Balt. Commissary LLC*, Civil Action No. 16 C 8301.

The complaint in this action was filed jointly by the United States and the State of Illinois and asserts claims under Section 113(b) of the Clean Air Act, as amended ("CAA"), 42 U.S.C. 7413(b), seeking injunctive relief and civil penalties for defendant's violations of its CAA permit. The complaint also includes additional counts brought by the State of Illinois for defendant's violation of reporting and certification requirements of the Illinois State Implementation Plan. The proposed consent decree will resolve all claims pled in the complaint and will require the defendant to perform injunctive relief and pay a civil penalty in the amount of $345,000.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Illinois* v. *East Balt. Commissary LLC*, D.J. Ref. No. 90–5–2–1–10668. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $ 12.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–21831 Filed 9–9–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before October 12, 2016.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards,

Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2016–026–C.

Petitioner: Mountain Coal Company, P.O. Box 591, 5174 Highway 133, Somerset, Colorado 81434.

Mine: West Elk Mine, MSHA I.D. No. 05–03672, located in Gunnison County, Colorado.

Regulation Affected: 30 CFR 75.1108(c) (Approved conveyor belts).

Modification Request: The petitioner requests a modification of the existing standard to permit continued use of an in-service underground conveyor belt approved under Part 18 for the E Seam development and longwall mining of panels 7, 8, 9, 10, 11, and 12 utilizing the stipulations specified in below.

In the alternative to compliance with 30 CFR 75.1108(c), the petitioner proposes the following:

(1) All underground conveyor belts used in B and F Seam will be approved under Part 14.

(2) A Part 14 approved underground conveyor belt will be utilized to replace any E seam underground conveyor belt that requires replacement due to damage.

(3) Spacing between existing carbon monoxide sensors in the E Seam belt entries will be reduced from 1,000 feet to 800 feet.

(4) E Seam belt entries will be traveled in their entirety by a trained person at least every four hours when the belt(s) are operating.

The petitioner asserts that the proposed alternative method will provide a level of safety equal to that provided by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2016–21793 Filed 9–9–16; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0043]

Access to Employee Exposure and Medical Records; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Access to Employee Exposure and Medical Records Standard (29 CFR 1910.1020).

DATES: Comments must be submitted (postmarked, sent, or received) by November 14, 2016.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0043, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2009–0043) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collection of information requirements in accord with the Paperwork Reduction Act (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Under the authority granted by the OSH Act, OSHA published a health regulation governing access to employee exposure monitoring data and medical records. This regulation does not require employers to collect any information or to establish any new systems of records. Rather, it requires that employers provide workers, their designated representatives, and OSHA with access to employee exposure monitoring and medical records, and any analyses resulting from these records that employers must maintain under OSHA's toxic chemical and harmful physical agent standards. In this regard, the regulation specifies requirements for record access, record retention, worker information, trade secret management, and record transfer. Accordingly, the Agency attributes the burden hours and costs associated with exposure monitoring and measurement, medical surveillance, and the other activities required to generate the data governed by the regulation to the health standards that specify these activities; therefore, OSHA did not include these burden hours and costs in this ICR.

Access to exposure and medical information enables employees and their designated representatives to become directly involved in identifying and controlling occupational health hazards, as well as managing and preventing occupationally-related health impairment and disease. Providing the Agency with access to the records permits it to ascertain whether or not employers are complying with the regulation, as well as with the recordkeeping requirements of its other health standards; therefore, OSHA access provides additional assurance that workers and their designated representatives are able to obtain the data they need to conduct their analyses.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collection of information requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the collection of information requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The Agency is requesting an adjustment decrease of 14,477 burden hours (from 730,515 to 716,038 burden hours). The decrease is the result of an adjustment in the number of establishments used in this analysis decreasing from 759,668 to 739,432, a total adjustment of 20,236.

Type of Review: Extension of a currently approved collection.

Title: Access to Employee Exposure and Medical Records (29 CFR 1910.1020).

OMB Control Number: 1218–0065.

Affected Public: Business or other for-profits.

Number of Respondents: 739,432.

Total Responses: 5,770,925.

Frequency of Responses: Initially; Annually; On occasion.

Average Time per Response: Various.

Estimated Total Burden Hours: 716,038.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2009–0043). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627). Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on September 7, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–21886 Filed 9–9–16; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Recordkeeping and Disclosure Requirements of Regulations B, E, and M, Issued by the Consumer Financial Protection Bureau (CFPB), and Regulation CC, Issued by the Board of Governors of the Federal Reserve System (FRB); Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: NCUA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the submission for reinstatement of a previously approved collection, as required by the Paperwork Reduction Act of 1995. NCUA is soliciting comment on the reinstatement of the information collection described below.

DATES: Comments should be received on or before November 14, 2016 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314, Suite 5067; Fax No. 703–519–8579; or Email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

This information collection request provides for the application of three CFPB rules and one FRB rule. NCUA has enforcement responsibility for these rules for federal credit unions. These rules are:

- Regulation B (''Equal Credit Opportunity Act,'' 12 CFR part 1002);
- Regulation E (''Electronic Fund Transfers,'' 12 CFR part 1005);
- Regulation M (''Consumer Leasing,'' 12 CFR part 1013); and
- Regulation CC (''Availability of Funds and Collection of Checks,'' 12 CFR part 229).

Regulation B—12 CFR Part 1002—Equal Credit Opportunity Act (ECOA) (15 U.S.C. 1691)

The ECOA was enacted in 1974 and is implemented by Regulation B. ECOA and Regulation B prohibit lenders from discriminating in any aspect of a credit transaction on the basis of the applicant's sex, marital status, race, color, religion, national origin, or age. It also prohibits discrimination because an applicant's income is derived from a public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act (Pub.L. 90–321, 82 Stat.146).

The regulation establishes guidelines for gathering and evaluating information about personal characteristics in applications for certain dwelling-related loans, requires lenders to provide applicants with certain information including copies of appraisal reports in connection with credit transactions, and requires written notification of action taken on a credit application. The regulation contains rules relating to the use of co-signers. The regulation also requires spousal information to be reported to consumer reporting agencies to reflect participation of both spouses.

Regulation E—12 CFR Part 1005—Electronic Fund Transfers (Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq.)

The Electronic Fund Transfer Act (EFTA) was enacted in 1978 and is implemented by Regulation E. The EFTA and Regulation E establish the rights, liabilities, and responsibilities of parties in electronic fund transfer (EFT) services and offer protections to consumers when they use such systems. The disclosures required by this regulation are designed to ensure consumer receive adequate disclosure of basic terms, costs, and rights relating to EFT services provided to them so that they can make informed decisions. Credit unions offering EFT services must disclose certain information to consumers including the following: Initial and updated EFT terms, transaction information, the consumer's potential liability for unauthorized transfers, and error resolution rights and procedures. The regulation also covers change-in-terms notices if the change would result in increased liability for the consumer, increased fees, fewer types of available EFTs, or stricter limitations on the frequency or dollar amounts of transfers; disclosures related to loyalty, award, or promotional gift cards; and requirements for gift card and gift certificate exclusions, prohibition on sale of gift certificates or cards with expiration dates, and other certificate and card disclosures. Subpart B of the regulation covers activities of remittance transfer providers.

Regulation M—12 CFR Part 1013—Consumer Leasing (Consumer Leasing Act, 15 U.S.C. 1667–1667f)

The Consumer Leasing Act (CLA) was enacted in 1976 as an amendment to the Truth in Lending Act (TILA). The CLA and Regulation M are intended to provide consumers with meaningful disclosures about the costs and terms of leases for personal property. The disclosures enable consumers to compare the terms for a particular lease with those for other leases and, when appropriate, to compare lease terms with those for credit transactions. The CLA and Regulation M also contain rules about advertising consumer leases and limit the size of balloon payments in consumer lease transactions. The CLA and regulation M requires lessors to disclose to consumers uniformly the costs, liabilities, and terms of consumer lease transactions. Disclosures are provided to consumers before they enter into lease transactions and in advertisements that state the availability of consumer leases on particular terms. The regulation generally applies to consumer leases of personal property in which the contractual obligation does not exceed $54,600[1] and has a term of more than four months.

Regulation CC—12 CFR Part 229—Availability of Funds and Collection of Checks (Expedited Funds Availability Act, 12 U.S.C. 4001–4010 and the Check Clearing for the 21st Century Act, 12 U.S.C. 5001–5018)

This regulation establishes timeframes to govern the availability of funds deposited in checking accounts, rules to govern the collection and return of checks, and general provisions to govern the use of substitute checks. The regulation has consumer protection disclosure requirements and requires credit unions to make funds deposited in transaction accounts available within specified time periods, disclose their availability policies to customers, and begin accruing interest on such deposit promptly. The disclosures are intended to alert customers that their ability to used deposited funds may be delayed, prevent unintentional (and costly) overdrafts, and allow customers to compare the policies of different institutions before deciding at which institution to deposit funds. The regulation also requires notice to the depositary bank and to a customer of nonpayment of a check.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

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[1] The threshold amount is adjusted annually to reflect increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (§ 1013.1(e)(1)).

II. Data

Title: Regulation B ("Equal Credit Opportunity Act," 12 CFR part 1002); Regulation E ("Electronic Fund Transfers," 12 CFR part 1005); Regulation M ("Consumer Leasing," 12 CFR part 1013); and Regulation CC ("Availability of Funds and Collection of Checks," 12 CFR part 229).

OMB Number: 3133–0103.

Type of Review: Reinstatement with change of a previously approved collection.

Description: The third party disclosure and recordkeeping requirements in this collection are required by statute and regulation. The regulations prescribe certain aspects of the credit application and notification process, making certain disclosures, uniform methods for computing the costs of credit, disclosing credit terms and cost, resolving errors on certain types of credit accounts, and timing requirements and disclosures relating to the availability of deposited funds.

Respondents: Federal credit unions for Regulations B and M. Federal credit unions and any credit union member who chooses to exercise opt-in rights for Regulation E. Federally-insured credit unions for Regulation CC.

Estimated No. of Respondents: Regulation B, 3,811 federal credit unions. Regulation E, 2,938 federal credit unions and 24,700,000 credit union members who opt-in. Regulation M, 35 federal credit unions. Regulation CC, 4,957 federally-insured credit unions.

Frequency of Response: Annually for most credit unions. Once for credit union members choosing to opt-in.

Estimated Burden Hours per Response: Estimated burden hours per response range from 0.01 to 20 depending upon the information collection activity.

Estimated Total Annual Burden Hours: Regulation B, 484,351. Regulation E, 2,254,319. Regulation M, 2,625. Regulation CC, 504,610.

Reason for Change: The NCUA is consolidating the disclosure and recordkeeping requirement contained under Regulations B, E, M, and CC under a single information collection. Information collection requirements previously cleared under OMB control numbers 3133–0104 and 3133–0105 will be consolidated under 3133–0103.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on September 7, 2016.

Dated: September 7, 2016.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2016–21863 Filed 9–9–16; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, September 15, 2016.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Corporate Stabilization Fund Quarterly Report.

2. Board Briefing, Cyber Security in the Credit Union System.

RECESS: 11:00 a.m.

TIME AND DATE: 11:15 a.m., Thursday, September 15, 2016.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Merger Request. Closed pursuant to Exemption (8).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2016–21973 Filed 9–8–16; 4:15 pm]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[EA–16–022; NRC–2016–0191]

In the Matter of All Power Reactor Licensees Owned and Operated by First Energy Nuclear Operating Company; and First Energy Corp

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued a confirmatory order (Order) to First Energy Nuclear Operating Company (the licensee), confirming the agreement reached in an Alternative Dispute Resolution mediation session held on July 21, 2016. This Order will ensure the licensee restores compliance with NRC regulations.

DATES: The Order was issued on September 1, 2016.

ADDRESSES: Please refer to Docket ID NRC–2016–0191 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0191. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Kenneth Lambert, Region III, U.S. Nuclear Regulatory Commission, Lisle, Illinois 60532; telephone: 630–810–4376, email: *Kenneth.Lambert@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Lisle, Illinois, this 7th day of September, 2016.

For the Nuclear Regulatory Commission.

Darrell J. Roberts,

Deputy Regional Administrator, Region III.

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

In the Matter of All Power Reactor Licensees Owned and Operated by First Energy Nuclear Operating Company; and First Energy Corp

Docket Nos. (Attachment 1)

License Nos. (Attachment 1)

EA–16–022

Confirmatory Order Modifying License

I

First Energy Nuclear Operating Company (FENOC), is the holder of Reactor Operating License No. NPF–3 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 on April 22, 1977. The license authorizes the operation of the Davis-Besse Nuclear Power Station (Davis-Besse) in accordance with conditions specified therein. The facility is located on FENOC's site in Oak Harbor, Ohio.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on July 21, 2016.

II

On February 9, 2015, the NRC Office of Investigations (OI), Region III Field Office, initiated an investigation to determine whether a licensed reactor operator at Davis-Besse deliberately failed to comply with a condition of his license and to report a change in a medical condition. The NRC completed its investigation on January 29, 2016.

Based on the evidence gathered in the OI investigation, a licensed reactor operator deliberately provided false information to the facility licensee. This inaccurate information was used by the facility licensee to complete NRC 396 forms that were submitted to the NRC. Specifically, the operator signed forms validating the accuracy of the list of prescription medication he was taking when he knew the list was inaccurate. The information in the document, which was material to the NRC because it provided the basis for the operator's medical qualification, was submitted to the NRC by the facility licensee causing a violation of 10 CFR 50.9(a).

FENOC accepted the NRC's offer of Alternative Dispute Resolution (ADR) to resolve the dispute with the NRC over the results of the investigation and the apparent violation. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement to resolve differing views on the dispute. On July 21, 2016, FENOC and the NRC met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution.

Prior to the NRC's offer to engage in ADR, FENOC had already taken several corrective actions, including (but not limited to):

1. Took performance management actions with the individual licensed operator;
2. Provided required reading to all licensed operators at Davis-Besse on requirements for maintaining medical qualifications and reporting changes in medical conditions;
3. Reinforced expectations and requirements for medical reporting and completeness and accuracy of information with Davis-Besse and FENOC management through routine Operations Leadership meetings, and Operations and Regulatory Compliance Peer Team calls;
4. Verified through an Independent Operator Survey the effectiveness of communications to licensed operators regarding the requirements for medical reporting and completeness and accuracy of information; and
5. Completed a review of corrective action program documents to identify potential trends in medical reporting.

III

During the ADR session held on July 21, 2016, a preliminary settlement agreement was reached. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process. The elements of the agreement, as signed by both parties, consisted of the following:

1. To reinforce knowledge of and compliance with requirements for medical qualifications and completeness and accuracy of reported information, FENOC will take the following actions related to licensed operator requalification training at Davis-Besse:

a. Within 60 days of the effective date of the Confirmatory Order, Davis-Besse operations management will complete discussions with each licensed operator regarding the facts and lessons learned from the event that gave rise to the Confirmatory Order.

b. No later than December 31, 2016, FENOC will revise operator requalification training materials to incorporate facts and lessons learned from the event that gave rise to the Confirmatory Order.

2. To reinforce knowledge of and compliance with requirements for ensuring the completeness and accuracy of reported information across the fleet, FENOC will take the following actions:

a. No later than December 31, 2016, appropriate FENOC management will communicate expectations and requirements for complete and accurate medical reporting to operations and security personnel subject to those requirements;

b. No later than December 31, 2017, FENOC will revise and administer fleetwide plant access training. The revised training shall address the provisions of 10 CFR 50.9 and incorporate facts and lessons learned from the event that gave rise to the Confirmatory Order.

3. Upon completion of actions taken under items 1 and 2 to strengthen communications and training, but in no event later than two years from the effective date of the Confirmatory Order, FENOC shall complete an effectiveness review of those actions.

4. No later than December 31, 2016, FENOC will revise existing fleet procedures governing the update of licensed operators' medical reports. The revised procedure will state that the licensed medical physician may request that the operator submit prescription purchase records or receipts, if the physician deems appropriate.

5. To ensure dissemination of the facts and lessons learned across the nuclear industry, FENOC will take the following actions:

a. Within 30 days of the Agreement in Principle, FENOC will make a presentation at the Nuclear Medical Resources Professionals User Group to engage industry personnel from across the entirety of the United States on the facts and lessons learned from the event that gave rise to the Confirmatory Order.

b. No later than December 31, 2016, FENOC shall submit an article to a widespread trade publication based on the facts and lessons learned from the event that gave rise to the Confirmatory Order. FENOC shall provide to the Director, Division of Reactor Safety, NRC Region III, a draft of the article 30 days prior to the submittal.

6. To ensure communication of actions completed and to enable NRC inspection, FENOC will make the following notifications to the Director, Division of Reactor Safety, NRC Region III:

a. No later than March 1, 2017, FENOC will provide written notification of the completion of actions taken under items 1a., 1b., 2a., 4, 5a., and 5b.

b. No later than December 31, 2018, FENOC will provide written notification of the completion of actions taken under items 2b. and 3.

In exchange for the commitments and corrective actions taken by FENOC, the NRC agrees to the following conditions:

1. The NRC will not issue a violation and agrees not to pursue any further enforcement action in connection with the NRC's May 17, 2016 letter to FENOC.

2. The NRC will consider the Confirmatory Order as an escalated enforcement action for a period of one year from its effective date.

This agreement is binding upon the successors and assigns of FENOC.

On August 29, 2016, FENOC consented to issuing this Confirmatory Order with the commitments, as described in Section V below. FENOC further agreed that this Confirmatory Order is to be effective 30 calendar days after issuance of the Confirmatory Order and that it has waived its right to a hearing.

IV

Since FENOC agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that FENOC's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that FENOC's commitments be confirmed by this Order. Based on the above and FENOC's consent, this Confirmatory Order is effective 30 calendar days after issuance.

V

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR part 50, IT IS HEREBY ORDERED THAT THE ACTIONS DESCRIBED BELOW WILL BE TAKEN AT DAVIS–BESSE NUCLEAR POWER STATION AND OTHER NUCLEAR PLANTS IN FENOC's FLEET WHERE INDICATED AND THAT LICENSE NO. NPF–3 IS MODIFIED AS FOLLOWS WITH RESPECT TO THE ACTIONS TO BE TAKEN AT THE DAVIS–BESSE NUCLEAR POWER STATION:

1. Within 60 days of the effective date of the Confirmatory Order, Davis-Besse operations management will complete discussions with each licensed operator regarding the facts and lessons learned from the event that gave rise to the Confirmatory Order.

2. No later than December 31, 2016, FENOC will revise operator requalification training materials to incorporate facts and lessons learned from the event that gave rise to the Confirmatory Order.

3. No later than December 31, 2016, appropriate FENOC management will communicate expectations and requirements for complete and accurate medical reporting to operations and security personnel subject to those requirements.

4. No later than December 31, 2017, FENOC will revise and administer fleetwide plant access training. The revised training shall address the provisions of 10 CFR 50.9 and incorporate facts and lessons learned from the event that gave rise to the Confirmatory Order.

5. Upon completion of actions taken under items 1, 2, 3, and 4, but in no event later than two years from the effective date of the Confirmatory Order, FENOC shall complete an effectiveness review of those actions.

6. No later than December 31, 2016, FENOC will revise existing fleet procedures governing the update of licensed operators' medical reports. The revised procedure will state that the licensed medical physician may request that the operator submit prescription purchase records or receipts, if the physician deems appropriate.

7. Within 30 days of the Agreement in Principle, FENOC will make a presentation at the Nuclear Medical Resources Professionals User Group to engage industry personnel from across the entirety of the United States on the facts and lessons learned from the event that gave rise to the Confirmatory Order.

8. No later than December 31, 2016, FENOC shall submit an article to a widespread trade publication based on the facts and lessons learned from the event that gave rise to the Confirmatory Order. FENOC shall provide to the Director, Division of Reactor Safety, NRC Region III, a draft of the article 30 days prior to the submittal.

9. No later than March 1, 2017, FENOC will provide written notification to the Director, Division of Reactor Safety, NRC Region III of the completion of actions taken under items 1, 2, 3, 6, 7, and 8.

10. No later than December 31, 2018, FENOC will provide written notification to the Director, Division of Reactor Safety, NRC Region III of the completion of actions taken under items 4 and 5.

The Regional Administrator, Region III, may, in writing, relax or rescind any of the above conditions upon demonstration by FENOC of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than FENOC, may request a hearing within 30 days of the issuance date of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007), as amended by 77 FR 46562; August 3, 2012 (codified in pertinent part at 10 CFR part 2, subpart C). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene through the EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time (ET) on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8:00 a.m. and 8:00 p.m., ET, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, participants are requested not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application.

If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue a separate Order designating the time and place of any hearings, as appropriate. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days after issuance of the Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated at Lisle, Illinois this 1st day of September 2016.

For the Nuclear Regulatory Commission.

Darrell J. Roberts acting for,

Cynthia D. Pederson,

Regional Administrator.

Attachment 1

All Power Reactor Licensees Owned and Operated by First Energy Nuclear Operating Company; and First Energy Corp

Beaver Valley Power Station, Unit Nos. 1 and 2

Docket Nos'. 50–334 and 50–412
License Nos. DPR–66 and NPF–73
Mr. Marty Richey, Site Vice President, Pennsylvania 168, Shippingport, PA 15001

Davis-Besse Nuclear Power Station, Unit No. 1

Docket No. 50–346
License No. NPF–3
Mr. Brian Boles, Site Vice President, 5501 OH–2, Oak Harbor, OH 43449

Perry Nuclear Power Plant, Unit No. 1

Docket No. 50–440
License No. NPF–58
Mr. Dave Hamilton, Site Vice President, 10 Center Rd, Perry, OH 44081

[FR Doc. 2016–21839 Filed 9–9–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting Notice

DATE: September 12, 19, 26, October 3, 10, 17, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of September 12, 2016

Monday, September 12, 2016

1:30 p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852.

Tuesday, September 13, 2016

2:00 p.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9).

Friday, September 16, 2016

9:00 a.m. Briefing on Fee Process (Public Meeting) (Contact: Michele Kaplan: 301–415–5256).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of September 19, 2016—Tentative

Monday, September 19, 2016

9:00 a.m. Briefing on NRC Tribal Policy Statement (Public Meeting) (Contact: Michelle Ryan: 630–829–9724).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of September 26, 2016—Tentative

There are no meetings scheduled for the week of September 26, 2016.

Week of October 3, 2016—Tentative

Wednesday, October 5, 2016

9:00 a.m. Hearing on Combined Licenses for William States Lee III Nuclear Station, Units 1 and 2: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Brian Hughes: 301–415–6582).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, October 6, 2016

10:00 a.m. Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: Mark Banks: 301–415–3718).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of October 10, 2016—Tentative

There are no meetings scheduled for the week of October 10, 2016.

Week of October 17, 2016—Tentative

Tuesday, October 18, 2016

9:30 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Janelle Jessie: 301–415–6775).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, October 20, 2016

9:30 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting) (Contact: Donna Williams: 301–415–1322).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* Braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: September 8, 2016.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–21957 Filed 9–8–16; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Meeting of the Hispanic Council on Federal Employment

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Hispanic Council on Federal Employment (Council) meeting will be held on Thursday, October 13, 2016 at the following time and location shown below:

Time: 10:00 a.m. to 11:30 a.m.

Location: U.S. Office of Personnel Management, 1900 E Street NW., Executive Conference Room, 5th Floor, Washington, DC 20415

The Council is an advisory committee composed of representatives from Hispanic organizations and senior government officials. Along with its other responsibilities, the Council must advise the Director of the Office of Personnel Management on matters involving the recruitment, hiring, and advancement of Hispanics in the Federal workforce. The Council is co-chaired by the Director of the Office of Personnel Management and the Chair of the National Hispanic Leadership Agenda (NHLA).

The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to present material to the Council at any of the meetings. The manner and time prescribed for presentations may be limited, depending upon the number of parties that express interest in presenting information.

FOR FURTHER INFORMATION CONTACT: Zina Sutch, Director, Office of Diversity and Inclusion, Office of Personnel Management, 1900 E Street NW., Suite 5H35, Washington, DC 20415. Phone (202) 606–2433, Fax (202) 606–6012, or email at *Zina.Sutch@opm.gov.*

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2016–21887 Filed 9–9–16; 8:45 am]

BILLING CODE 6820–B2–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–188 and CP2016–271; MC2016–189 and CP2016–272; MC2016–190 and CP2016–273; MC2016–191 and CP2016–274; MC2016–192 and CP2016–275]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 13, 2016. (Comment due date applies to all Docket Nos. listed above)

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2016–188/CP2016–271; *Filing Title:* Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 29 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 2, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Jennaca D. Upperman; *Comments Due:* September 13, 2016.
2. *Docket No(s).:* MC2016–189/CP2016–272; *Filing Title:* Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 30 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 2, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Jennaca D. Upperman; *Comments Due:* September 13, 2016.
3. *Docket No(s).:* MC2016–190/CP2016–273; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 235 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 2, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* September 13, 2016.
4. *Docket No(s).:* MC2016–191/CP2016–274; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 236 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 2, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* September 13, 2016.
5. *Docket No(s).:* MC2016–192/CP2016–275; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 237 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 2, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* September 13, 2016.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,
Secretary.

[FR Doc. 2016–21814 Filed 9–9–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 2, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 237 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–192, CP2016–275.

Stanley F. Mires,
Attorney, Federal Compliance.

[FR Doc. 2016–21806 Filed 9–9–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 2, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 236 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–191, CP2016–274.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–21804 Filed 9–9–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 2, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 30 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–189, CP2016–272.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–21809 Filed 9–9–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 2, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 235 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–190, CP2016–273.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–21805 Filed 9–9–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 2, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 29 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–188, CP2016–271.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–21810 Filed 9–9–16; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78774; File No. SR–DTC–2016–003]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Impose Deposit Chills and Global Locks and Provide Fair Procedures to Issuers

September 6, 2016.

I. Introduction

On May 27, 2016, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR–DTC–2016–003 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published in the **Federal Register** on June 9, 2016.[3] The Commission received eight comment letters to the proposed rule change from five commenters, including two response letters from DTC.[4] Pursuant to Section 19(b)(2) of the Act,[5] on July 21, 2016, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[6]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77991 (June 3, 2016), 81 FR 37232 (June 9, 2016) (SR–DTC–2016–003) ("Notice").

[4] *See* letter from Charles V. Rossi, Chairman, The Securities Transfer Association ("STA"), Inc. Board Advisory Committee, dated June 30, 2016, to Brent J. Fields, Secretary, Commission ("STA Letter I"); letter from Dorian Deyet, dated June 30, 2016 ("Deyet Letter"); letter from Ann K. Shuman, Managing Director and Deputy General Counsel, DTC, dated July 21, 2016, to Brent J. Fields, Secretary, Commission ("DTC Letter I"); letter from Harvey Kesner ("Kesner"), Sichenzia, Ross, Friedman, Ference, dated August 11, 2016, to Brent J. Fields, Secretary, Commission ("Kesner Letter I"); letter from Isaac Montal, Managing Director and Deputy General Counsel, DTC, dated August 22, 2016, to Brent J. Fields, Secretary, Commission ("DTC Letter II"); letter from Charles V. Rossi, Chairman, STA Board Advisory Committee, dated August 29, 2016, to Brent J. Fields, Secretary, Commission ("STA Letter II"); letter from Kesner, Sichenzia, Ross, Friedman, Ference, dated August 30, 2016, to Brent J. Fields, Secretary, Commission ("Kesner Letter II"); and letter from Norman B. Arnoff ("Arnoff"), dated September 4, 2016 to Secretary Fields ("Arnoff Letter"). *See* comments on the proposed rule change (SR–DTC–2016–003), *https://www.sec.gov/comments/sr-dtc-2016-003/dtc2016003.shtml.*

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 78379 (July 21, 2016), 81 FR 49309 (July 27, 2016). The

Continued

On July 29, 2016, DTC filed Amendment No. 1 to the proposed rule change, as discussed below.

The Commission is publishing this notice and order to solicit comments on Amendment No. 1 from interested persons and to institute proceedings under Section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1. The institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change and Notice of Filing of Amendment No. 1

The proposed rule change, as modified by Amendment No. 1, would add Rule 33 to the Rules, By-Laws and Organization Certificate of DTC ("Rules") to establish: (i) The circumstances under which DTC would impose and release a restriction on Deposits of an Eligible Security ("Deposit Chill") or on book-entry services for an Eligible Security ("Global Lock"); and (ii) the fair procedures for notice and an opportunity for the issuer of the Eligible Security ("Issuer") to challenge the Deposit Chill or Global Lock (each, a "Restriction"), as described below.[8]

A. Background

i. DTC

DTC stated that it is the nation's central securities depository, registered as a clearing agency under Section 17A of the Act,[9] and that its deposit and book-entry transfer services help facilitate the operation of the nation's securities markets. According to DTC, by serving as registered holder of trillions of dollars of Securities, on a daily basis, DTC processes enormous volumes of securities transactions facilitated by book-entry movement of interests, without the need to transfer physical certificates.

DTC performs services and maintains Securities Accounts for its Participants, primarily banks and broker dealers, pursuant to its Rules and Procedures. Participants agree to be bound by DTC's Rules and Procedures as a condition of their DTC membership.[10] DTC allows a Participant to present Securities to be made eligible for DTC's depository and book-entry services. If a Security is accepted by DTC as meeting DTC's eligibility requirements for services[11] and is deposited with DTC for credit to the Securities Account of a Participant, it becomes an Eligible Security. Thereafter, DTC explained, Participants may deposit shares of that Eligible Security into their respective DTC accounts. To facilitate book-entry transfers and other services that DTC provides for its Participants with respect to Deposited Securities, DTC explained that the Deposited Securities are generally registered on the books of the Issuer (typically, in a register maintained by a transfer agent) in DTC's nominee name, Cede & Co. DTC further explained that Deposited Securities that are eligible for book-entry services are maintained in "fungible bulk," (*i.e.*, each Participant whose Securities of an issue have been credited to its Securities Account has a pro rata (proportionate) interest in DTC's entire inventory of that issue, but none of the Securities on deposit are identifiable to or "owned" by any particular Participant).[12]

ii. Deposit Chills and Global Locks: Prior Procedures

According to DTC, previously, upon detecting suspiciously large deposits of a thinly traded Eligible Security, DTC imposed or proposed to impose a Deposit Chill as a measure to maintain the status quo while, pursuant to its Operational Arrangements,[13] DTC would then require the Issuer to confirm by legal opinion of independent counsel that the Eligible Security fulfilled the requirements for eligibility. DTC explained that the Deposit Chill would be maintained until the Issuer provided a satisfactory legal opinion, and that the Deposit Chill could remain in place for years, due to an Issuer's non-responsiveness, refusal, or inability to submit the required legal opinion.

With respect to Global Locks, DTC explained that it previously imposed a Global Lock on an Eligible Security when a governmental or regulatory authority commenced a proceeding or action alleging violations of Section 5 of the Securities Act of 1933, as amended, with respect to such Eligible Security. A Global Lock could be released when the underlying enforcement action was withdrawn, dismissed on the merits with prejudice, or otherwise resolved in a final, non-appealable judgment in favor of the defendants allegedly responsible for the violations of federal securities laws. However, DTC stated that many enforcement actions are only resolved after several years[14] and commonly without any definitive determination of wrongdoing.[15]

DTC stated that the above describes, in part, the proposed procedures filed by DTC on December 5, 2013,[16] in response to the Commission's opinion and order in *In re International Power Group, Ltd.* ("*IPWG*") directing DTC to "adopt procedures that accord with the fairness requirements of Section 17A(b)(3)(H)."[17] DTC withdrew the proposed rule change on August 18, 2014.[18]

According to DTC, as a result of its experiences following the *IPWG* decision and in connection with the previous proposal, DTC has determined that its proposed procedures for imposing Deposit Chills and Global Locks are more appropriately directed to current trading halts or suspensions imposed by the Commission, the Financial Industry Regulatory Authority, Inc. ("FINRA"), or a court of competent jurisdiction, and therefore

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Commission designated September 7, 2016, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[7] 15 U.S.C. 78s(b)(2)(B).

[8] The description of the proposed rule change herein is based on the statements prepared by DTC in the Notice. Notice, *supra* note 3, 81 FR at 37232–36. Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[9] *See* Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (October 3, 1983) (600–1).

[10] *See supra* note 8.

[11] *See* Rule 5, *supra* note 8; DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services), January 2012 (the "Operational Arrangements"), Section 1, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf.*

[12] *See* Securities Exchange Act Release No. 19678 (April 15, 1983), 48 FR 17603, 17605, n.5 (April 25, 1983) (describing fungible bulk); *see also* N.Y. Uniform Commercial Code, § 8–503, Off. Cmt 1 (". . . all entitlement holders have a pro rata interest in whatever positions in that financial asset the [financial] intermediary holds").

[13] *See* Operational Arrangements, Section I.A, *supra* note 11.

[14] *See, e.g., SEC* v. *Kahlon,* 12–CV–517 (E.D. Tex., filed August 14, 2012); *SEC* v. *Bronson,* 12–cv–06421–KMK (S.D.N.Y., filed August 22, 2012). As of the date of this filing, neither case has been resolved.

[15] *See, e.g., SEC* v. *Reiss,* 13–cv–01537, dkt no. 10 (S.D.N.Y. 2014) (issuing a final judgment against the defendant in an enforcement action, without the defendant admitting or denying the allegations).

[16] *See* Securities Exchange Act Release No. 71132 (December 18, 2013); 78 FR 77755 (December 24, 2013) (SR–DTC–2013–11).

[17] *See* Securities Exchange Act Release No. 66611 (March 15, 2012), 2012 SEC LEXIS 844 at *32 (March 15, 2012) (Admin. Proc. File No. 3–13687).

[18] *See* Securities Exchange Act Release No. 72860 (August 18, 2014), 79 FR 49825 (August 22, 2014) (SR–DTC–2013–11).

will be more effective in targeting suspected securities fraud that is ongoing at the time the Restriction is imposed. In particular, with respect to Deposit Chills imposed pursuant to DTC's previous procedures, DTC believed that wrongdoers have seemingly taken into account DTC's Restriction process, and have been avoiding it by shortening the timeframe in which they complete their scheme, dump their shares into the market, and move on to another issue.

Additionally, DTC stated that Global Locks were typically being imposed on the basis of a Commission enforcement action alleging securities law violations that had occurred in the past, and so could not affect the violative behavior (unless the alleged securities law violations were ongoing). According to DTC, by the time of an enforcement action, the wrongdoers have long since transferred the subject securities. In addition, although a Global Lock bars book-entry settlements within DTC, it does not affect the trading of the issue, which occurs outside of DTC.

B. Proposed Rule Change

i. Proposed Basis for the Imposition of Restrictions

Under Sections 1(a) and (b) of the proposed rule change, if either FINRA or the Commission halts or suspends trading of an Eligible Security, respectively, DTC would impose a Global Lock. Similarly, under Section 1(c) of the proposed rule change, DTC would impose a Global Lock if ordered to do so by a court of competent jurisdiction. DTC states that its facilities should not be available to settle transactions otherwise prohibited by the Commission, FINRA, or a court of competent jurisdiction. DTC also stated that the imposition of a Global Lock on an Eligible Security for which trading is halted or suspended would prevent settlement of trades that continue despite the halt or suspension, and prevent the liquidation of a halted or suspended position through DTC.

Notwithstanding Sections 1(a) and (b) of the proposed rule change, according to DTC, there may be certain limited circumstances where a Global Lock would not further the regulatory purpose of such trading halt or suspension. Therefore, DTC stated that if it reasonably determines that such is the case, DTC may decline to impose a Global Lock.

Finally, under Section 1(d) of the proposed rule change, DTC would impose a Restriction when it becomes aware of a need for immediate action to avert an imminent harm, injury, or other such material adverse consequence to DTC or its Participants that could arise from further Deposits of, or continued book-entry services with respect to, an Eligible Security. DTC explained that, while it is impossible to anticipate all possible scenarios that could give rise to the need for action by DTC under Section 1(d) to avoid imminent harm, DTC does not anticipate that it would impose Restrictions pursuant to this formulation frequently. Examples given by DTC where this provision could be invoked include, but are not limited to, if DTC became aware that marketplace actors were about to deposit Securities at DTC in connection with an ongoing corporate hijacking, market manipulation, or in violation of other applicable laws; if an Issuer or its agent provides DTC with plausible information that Security certificates were stolen and were about to be deposited; or if an Issuer notifies DTC that shares of a Security had just been issued erroneously upon a conversion of previously satisfied notes.

ii. Proposed Basis for the Release of Restrictions

As part of DTC's process for imposing Restrictions premised on direct court or regulatory agency intervention or the prospect of imminent adverse consequences to DTC or its Participants, the proposed rule change provided corresponding criteria for releasing such Restrictions. In the case of a Global Lock imposed pursuant to Sections 1(a) and (b) of the proposed rule change (*i.e.,* when either FINRA or the Commission issues a trading halt or suspension, respectively), DTC proposed that it would release the Global Lock when the halt or suspension of trading of the Eligible Security has been lifted. In the case of a Restriction imposed pursuant to Section 1(c) of the proposed rule change (*i.e.,* an order from a court of competent jurisdiction), DTC proposed that it would release the Restriction when a court of competent jurisdiction orders DTC to release the Restriction. DTC explained that because trading would no longer be prohibited by FINRA, the Commission, or a court order, there should not be any settlement restrictions, other than those otherwise provided in the Rules.

In the case of a Restriction imposed pursuant to Section 1(d) of the proposed rule change, DTC proposed that it would release the Restriction when DTC reasonably determines that the release of the Restriction would not pose a threat of imminent adverse consequences to DTC or its Participants, obviating the original basis for the Restriction. While DTC stated that it is impossible to anticipate all possible scenarios that could give rise to a release of a Restriction under this basis, DTC anticipated that it would release a Restriction imposed pursuant to Section 1(d) of the proposed rule change in a number of circumstances, including, without limitation, when DTC determined that the perceived harm has passed or is significantly remote, when the basis for the Restriction no longer exists, or when an Eligible Security had been previously Globally Locked based on a Commission enforcement action but there is no indication that illegally distributed Securities are about to be deposited.

Lastly, DTC proposed that it would release a Restriction when DTC reasonably determined that its imposition of the Restriction was based on a clerical mistake.

iii. Proposed Fair Procedures for Notice of and Opportunity To Challenge Restrictions

Pursuant to the proposed rule change, DTC would send written notice ("Restriction Notice") to the Issuer's last known business address and to the last known business address of the Issuer's transfer agent, if any, on record with DTC. The Restriction Notice would be sent within three Business Days of imposition of a Restriction and would set forth (i) the basis for the Restriction; (ii) the date the Restriction was imposed; (iii) that the Issuer may submit a written response to DTC detailing the basis for release of the Restriction under the proposed rule change ("Restriction Response"); and (iv) that the Restriction Response must be received by DTC within 20 Business Days of delivery of the Restriction Notice. The proposed rule change also provided that, in response to the Restriction Response, DTC may reasonably request additional information or documentation from the Issuer.

Once the Restriction Response is received by DTC, the proposed rule change provided that it would be reviewed by a DTC officer who did not have responsibility for the imposition of the Restriction ("Review Officer"). After the Review Officer completes the review, DTC would provide a written decision ("Restriction Decision") to the Issuer. Within 10 Business Days of delivery of the Restriction Decision, the Issuer may submit a "Supplement" for the sole purpose of establishing that DTC made a clerical mistake or mistake arising from an oversight or omission in reviewing the Restriction Response. If the Issuer submits a Supplement, the Review Officer would provide a "Supplement Decision" within 10

Business Days after the Supplement was delivered.

The proposed rule change also provided that the Restriction Notice, the Restriction Response, the Restriction Decision, the Supplement, the Supplement Decision, and any other documents submitted in connection with the proposed procedures would constitute the record for purposes of any appeal to the Commission.

Finally, the proposed rule change clarified that such Rules would not affect DTC's ability to (i) lift or modify a Restriction; (ii) operationally restrict book-entry services, Deposits, or other services in the ordinary course of business, as such restrictions do not constitute Deposit Chills or Global Locks for purposes of the proposed rule change; (iii) communicate with the Issuer or its transfer agent or representative, if any, provided that substantive communications are memorialized in writing to be included in the record for purposes of any appeal to the Commission; or (iv) send out a Restriction Notice prior to the imposition of a Restriction.

iv. Notice of Filing of Amendment No. 1

As originally proposed, Section 3 of the proposed rule change did not provide a specified period of time for the Review Officer to complete the review of the Restriction Response and for DTC to issue a Restriction Decision. DTC filed Amendment No. 1 to modify Section 3 of the proposed rule change to provide that DTC would issue a Restriction Decision within 10 Business Days after receiving a Restriction Response, which may be extended for a reasonable period of time (i) if DTC requests additional information or documents from the Issuer, or (ii) by consent of the Issuer or the transfer agent.

III. Summary of Comments Received

The Commission received eight comment letters in response to the proposed rule change.[19] One comment letter generally supported the proposed rule change.[20] Four comment letters by two commenters, STA and Kesner, objected to the proposed rule change.[21] Two comment letters from DTC responded to the objections raised by STA and Kesner,[22] and one comment letter did not specifically comment on any aspect of the proposed rule change.[23]

A. Supporting Comment

But for the points that are addressed in footnote 29, below, Arnoff fully endorsed the proposed rule change, stating that the proposed fair notice and opportunity to challenge procedures would prevent and mitigate harm to both issuers and innocent shareholders.[24]

B. Objecting Comments

STA and Kesner expressed general concerns with DTC, as a monopoly in the clearance and settlement of securities, exercising discretion to deny access to its services.[25]

Proposed Basis for Imposition of Restrictions Is Vague and Discretionary

STA stated that the proposed rule change suffers from vague, ambiguous standards and procedural problems.[26] Specifically, STA asserted that the authority to impose Restrictions under Section 1(d) of the proposed rule change is overly broad, arbitrary, permits DTC to exercise unfettered discretion, and would allow DTC to take action without any real evidence of the likelihood of actual harm or violation of objective standards.[27] STA also asserted that if DTC is concerned about imminent adverse consequences to itself or its Participants, it should limit its Restriction, under Section 1(d) of the proposed rule change, to only a single ten-day period, with any "fair process" occurring during that ten-day Restriction.[28] Furthermore, STA states that, during the ten-day period, DTC could resolve concerns based on a "misunderstanding" or inform the Commission or FINRA of its concerns, allowing either organization to take further action to protect DTC, its Participants, or investors from the imminent harm.[29]

Kesner believed that the basis for imposing Restrictions under Sections 1(a), (b), and (c) of the proposed rule change is consistent with the approach of DTC being directed by a regulator or court.[30] However, similar to STA, Kesner expressed concern that Section 1(d) of the proposed rule change would give authority to DTC to impose Restrictions merely upon the initiation of an investigation or enforcement proceeding where it concludes a threat is imminent requiring immediate action.[31] According to Kesner, DTC cannot be "fair" and cannot satisfy the requirements set forth in *IPWG* if DTC sets its own standards and acts on its own accord to impose a Restriction not directed by a traditional regulator or court because DTC does not have the resources, technical expertise, or

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[19] *See supra,* note 4.

[20] *See* Arnoff Letter.

[21] *See* STA Letters I and II, and Kesner Letters I and II.

[22] *See* DTC Letters I and II.

[23] *See* Deyet Letter.

[24] *See* Arnoff Letter.

[25] STA Letter I at 1; Kesner Letter I at 1. Commenters also raised other points about the proposed rule change, but they did not explain how those points render the proposed rule change inconsistent with the Act. For example, STA stated that (i) the proposed rule change was not a "good faith attempt" by DTC to comply with *IPWG,* and (ii) any record could not be "complete" for Commission review if the issuer does not have the ability to compel evidence from third parties that may be the cause of DTC's concern (STA Letter I at 3); while Kesner stated, for example, that (i) DTC's imposition of Restrictions, in many cases, are only based upon "flimsy legal footing, notice of commencement of an investigation or inquiry, anecdotal observations or even unproven news stories," (ii) the proposed rule change does not address the "unfortunate results that befall innocents caught up by a [Restriction], nor the immensity of the costs and burdens placed on issuers and investors seeking to clear a [Restriction]," and (iii) that the Commission has not "direct[ed] DTC to adopt[] rules to protect DTC or DTC's financial institution owners and DTC has not articulated how exercising discretionary authority satisfies its obligation for a process." Kesner Letter I at 2, 3; Kesner Letter II at 1. Because these points and other similar points made in the comment letters do not raise a legal issue with respect to whether the proposed rule change is consistent with the Act, they are not further summarized in this notice and order.

In addition, commenters raised other points beyond the scope of the proposed rule change. For example, STA stated that the proposed rule change should also apply to transfer agents seeking initial access to DTC's facilities (STA Letter I at 4); while Kesner stated, for example, that (i) the Commission should not act on the proposed rule change without (a) specific comments from major exchanges and OTCLink regarding coordination with DTC, and (b) the Commission concluding that DTC's actions under the proposed rule change would not interfere with the objectives of exchanges and other regulators and not hamper the functioning of the markets, (ii) DTC would need to give up its immunity from lawsuits in order for there to be a potentially fair process in the imposition and appeal of Restrictions, (iii) investors should have standing to appeal a Restriction, and (iv) the Commission should require DTC to undertake a study and submit all of its statistics surrounding Restrictions. Kesner Letter I at 4, 6; Kesner Letter II at 3. Similar to Kesner, Arnoff asserted that the proposed rule change should clarify that DTC should not be immune from civil liability, particularly if DTC cannot establish that it acted in good faith and with reasonable judgment, because DTC is not acting in a governmental capacity in the settlement and clearance process. Arnoff Letter. Moreover, Arnoff stated that because DTC is not infallible and the risk of error always exists, DTC should be required to purchase "errors and omissions insurance" to protect innocent issuers and investors and to add an "additional dimension of loss prevention." Arnoff Letter. Because these points and other similar points made in the comment letters are not germane to the proposed rule change and/or are beyond the scope of the proposed rule change, they are not further summarized in this notice and order.

[26] STA Letter I at 2; *see also* STA Letter II at 2.

[27] STA Letter I at 1–3; *see also* STA Letter II at 2.

[28] STA Letter I at 3.

[29] *Id. at 4.*

[30] Kesner Letter I at 6.

[31] *Id.*

"commitment to fairness" to undertake such an expansive role in the substantive regulation of securities Issuers or to become a "super-gatekeeper." [32] Rather, the imposition of Restrictions would best be left to exchanges and other "regulatory bodies" that have sufficient resources and could direct DTC to impose a service restriction when warranted.[33] Kesner further stated that DTC's imposition of Restrictions under Section 1(d) of the proposed rule change, if approved, should include specific methods by which an Issuer can successfully appeal and require DTC to remove the chill (or provide for automatic removal after a short period) that are fair and reasonable and that do not burden smaller Issuers with excessive costs or delays during the denial of the DTC's essential services.[34]

Proposed Procedures for Notice of and Opportunity To Challenge Restrictions Are Not Fair

STA contended that Section 3, as originally proposed, of the proposed rule change is procedurally deficient because there are no time periods specified in the proposed rule change for the DTC Review Officer's review to be completed. Thus, in some cases Issuers and investors could be harmed for an indefinite period while waiting for DTC to reach a decision.[35] Moreover, STA expressed concern that the Review Officer tasked with reviewing a Restriction Response may be located in an office near the person that imposed the Restriction, may have been involved in imposing the Restriction, and may be charged with overturning the decision made by a colleague.[36] Similarly, Kesner questioned the independence of the Review Officer and asserted that *IWPG* requires that appeals should be heard by parties independent of DTC and suggests that "representatives of the securities bar, [STA], transfer agents, clearing and settlement firms, auditors, and business people, under the guidance of the DTC General Counsel, should constitute the panel of hearing officers making recommendations for imposition and removal of [Restrictions], continuations and appeals whenever DTC acts." [37]

STA also asserted that notice of a Restriction should occur prior to or, at least, contemporaneously with imposition of the Restriction, particularly in the case of a Restriction imposed based on DTC's assessment of imminent harm, under Section 1(d) of the proposed rule change, not three days after the Restriction is imposed.[38]

C. DTC's Response

Response to Comments by STA and Kesner That the Proposed Basis for Imposition of Restrictions Is Vague and Discretionary

In response to STA's comment that the basis for imposition of Restrictions under the proposed rule change is vague, DTC asserted that Sections 1(a)–(c) of the proposed rule change provided objective trigger events for imposing Restrictions and will be the primary focus of the Restriction program going forward.[39] DTC also stated that it does not anticipate imposing Restrictions pursuant to Section 1(d) frequently [40] and has provided examples of circumstances under which imminent harm could arise in the future as described above.[41] Further, DTC asserted that, STA's position that the Commission should not approve the proposed rule change if they include Section 1(d) would deny DTC the flexibility to impose Restrictions if necessary to avoid imminent harm to DTC or its Participants.[42] DTC stated that it needs the flexibility to protect itself from imminent harm that could arise from circumstances that would neither justify nor be impacted by a trading halt or suspension.[43]

In response to Kesner's comment that Section 1(d) of the proposed rule change would give authority to DTC to impose Restrictions merely upon the initiation of an investigation or enforcement proceeding where it concludes a threat is imminent requiring immediate action, DTC asserted that it is critical to the self-regulatory function of DTC to retain discretion to avert imminent harm, including the discretion to take action before providing notice to the Issuer, if necessary.[44] Similarly, in response to both STA's and Kesner's comments that Restrictions imposed under Section 1(d) of the proposed rule change should be automatically removed after a short period or expire after 10 days, DTC stated that it would not be effective, reasonable, or practical for it to premise its proposed rule change on the assumption that the Commission or FINRA would or could take action quickly enough to protect DTC, its Participants, or investors.[45] DTC explained further that imminent harm to DTC or its Participants could arise from circumstances that would not be addressed by or justify a trading halt or suspension, such as the impending deposit of illegally distributed securities at DTC.[46] DTC also reiterated that it does not anticipate imposing Restrictions pursuant to Section 1(d) frequently.[47]

Response to Comments by STA and Kesner That the Proposed Procedures for Notice of and Opportunity To Challenge Restrictions Are Not Fair

In response to STA's specific claim that the proposal is procedurally deficient because it lacks a stated time period for the Review Officer to complete the review, DTC submitted Amendment No. 1 to Section 3 of the proposed rule change, which, as described above, established a ten-business-day deadline, with limited extension, for the Review Officer to complete its review of the Restriction Response and DTC provide a Restriction Decision.[48]

In response to STA's and Kesner's comments on the independence of the Review Officer and STA's comment that notice of a Restriction should be at least contemporaneously with the imposition of the Restriction, DTC stated that it believes the proposed rule change is sufficiently clear to require that the Review Officer not be conflicted and that the Review Officer's decision would be unbiased and independent,[49] and that the Commission's decisions in both *IPWG* and *In re Atlantis Internet Group* ("*Atlantis*") [50] recognize that DTC must retain discretion to avert imminent harm, including the discretion to take action before providing notice to the issuer, if necessary.[51]

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[32] *Id.* at 2, 4–5; *see also* STA Letter II at 3.

[33] Kesner Letter I at 6.

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] Kesner Letter II at 2.

[38] STA Letter I at 4.

[39] DTC Letter I at 2.

[40] *Id.* at 2.

[41] *Id.* at 3.

[42] *Id.* at 2.

[43] *Id.* at 3.

[44] DTC Letter II at 2.

[45] DTC Letter I at 3; see also DTC Letter II at 2.

[46] *Id.*

[47] *Id.*

[48] Prior to filing Amendment No. 1, DTC also contended in its response letter that a reasonable review by the Review Officer in a timely manner is implicit in the proposed process, recognizing that DTC is bound to perform a prompt review, and to do otherwise may conflict with its obligations under Section 17A of the Act. DTC Letter I at 4; 15 U.S.C. 78q–1.

[49] DTC Letter I at 4.

[50] *Atlantis,* Securities Exchange Act Release. No. 75168 at 7–8, 2015 SEC LEXIS 2394 (June 12, 2015) (Admin. Proc. File No. 3–15432).

[51] DTC Letter I at 3.

IV. Proceedings To Determine Whether To Approve or Disapprove SR–DTC–2016–003, as Modified by Amendment No. 1, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[52] to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the proposed rule change, and provide arguments to support the Commission's analysis as to whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[53] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with the Act and the rules thereunder. Specifically, the Commission believes that DTC's proposed rule change raises questions as to whether it is consistent with: (i) Section 17A(b)(3)(F) of the Act,[54] which requires, in part, that clearing agency rules be designed to assure the safeguarding of securities in the custody or control of the clearing agency and, in general, protect investors and the public interest; and (ii) Section 17A(b)(3)(H) of the Act,[55] which requires clearing agency rules to be in accordance with the provisions of Section 17A(b)(5)(B) of the Act, and, in general, provide a fair procedure with respect to the prohibition or limitation by the clearing agency of any person with respect to access to services offered by the clearing agency.[56] Section 17A(b)(5)(B) of the Act[57] requires that, in any proceeding by a registered clearing agency to determine whether a person shall be denied participation or prohibited or limited with respect to access to services offered by the clearing agency, the clearing agency shall notify such person of, and give him an opportunity to be heard upon, the specific grounds for denial or prohibition or limitation under consideration and keep a record.[58] A determination by the clearing agency to deny participation or prohibit or limit a person with respect to access to services offered by the clearing agency shall be supported by a statement setting forth the specific grounds on which the denial or prohibition or limitation is based.[59]

V. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the changes to the proposed rule change as set forth in Amendment No. 1, as well as any others they may have identified with the proposed rule change, as amended. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, as modified by Amendment No. 1, is consistent with Sections 17A(b)(3)(F) and 17A(b)(3)(H) of the Act, or any other provision of the Act, or the rules and regulations thereunder.

Interested persons are invited to submit written data, views, and arguments on or before October 3, 2016. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal on or before October 17, 2016. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2016–003 on the subject line.

Paper Statements

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2016–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2016–003 and should be submitted on or before October 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[60]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21802 Filed 9–9–16; 8:45 am]

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[52] 15 U.S.C. 78s(b)(2)(B).

[53] 15 U.S.C. 78s(b)(2)(B).

[54] 15 U.S.C. 78q–1(b)(3)(F).

[55] 15 U.S.C. 78q–1(b)(3)(H).

[56] 15 U.S.C. 78q–1(b)(3)(H).

[57] 15 U.S.C. 78q–1(b)(5)(B).

[58] *Id.*

[59] *Id.*

[60] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78770; File No. SR–NYSEArca–2016–101]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Relating to the Listing and Trading of Shares of SolidX Bitcoin Trust Under NYSE Arca Equities Rule 8.201

September 6, 2016.

On July 13, 2016, NYSE Arca, Inc. filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the SolidX Bitcoin Trust under NYSE Arca Equities Rule 8.201. The proposed rule change was published for comment in the **Federal Register** on August 2, 2016.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 16, 2016. The Commission is extending this 45-day time period.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78426 (Jul. 27, 2016), 81 FR 50763.

[4] 15 U.S.C. 78s(b)(2).

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates October 31, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca–2016–101).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21799 Filed 9–9–16; 8:45 am]

BILLING CODE 8011–01–P

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[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78771; File No. SR–BatsEDGX–2016–49]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Fees for Use of Bats EDGX Exchange, Inc.

September 6, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 22, 2016, Bats EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its marketing fee program to institute a monthly cap of $250,000 on undisbursed funds and reimburse excess funds on a pro-rata basis, as further described below.

The Exchange assesses a marketing fee to all Market Makers for contracts they execute in their assigned classes when the contra-party to the execution is a Customer.[6] The marketing fee is charged only in a Market Maker's assigned classes because it is in these classes that the Market Maker has the general obligation to attract order flow to the Exchange. Each Primary Market Maker ("PMM")[7] and Directed Market Maker ("DMM")[8] has a marketing fee pool into which the Exchange will deposit the applicable per-contract marketing fee. For orders directed to DMMs, the applicable marketing fees are allocated to the DMM pool. For non-directed orders, the applicable marketing fees are allocated to the PMM pool. All Market Makers that participated in such transaction will pay the applicable marketing fees to the Exchange, which allocates such funds to the Market Maker that controls the distribution of the marketing fee pool. Each month the Market Maker provides instruction to the Exchange describing how the Exchange is to distribute the marketing fees in the pool to the order flow provider, who submit as agent, Customer orders to the Exchange.

The Exchange proposes to now require that the total balance of the undisbursed marketing fees for a PMM pool and DMM pool cannot exceed $250,000. When the pool balance exceeds this threshold level, the Exchange will rebate funds proportionately to those who have paid the marketing fee during the preceding month. Today, undisbursed marketing fees are reimbursed to the Market Makers that contributed to the pool based upon their pro-rata portion of the entire amount of marketing fee collected. As proposed, each month, undisbursed marketing fees in excess of $250,000 will be reimbursed to the Market Makers that contributed to the pool based upon a one month look back and their pro-rata portion of the entire amount of marketing fee collected during that month. The Exchange will closely monitor the levels of the cap to ensure that there are adequate funds available to Market Makers to be competitive. The Exchange believes the proposed cap and reimbursement process would assist Market Makers in better managing their respective marketing fee pools and incentivize them to allocate those funds to order flow providers accordingly on a monthly basis.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." *See* Exchange Rule 1.5(n).

[6] The amount of the marketing fee depends upon whether the affected option class is a Penny Pilot Security. A marketing fee of $0.25 per contract is assessed to Market Makers for transactions in Penny Pilot Securities. A Marketing Fee of $0.70 per contract is assessed to Market Makers for transactions in Non-Penny Pilot Securities. A list of option classes included in the Penny Pilot Program is available on the Exchange's Web site.

[7] *See* Exchange Rule 21.8(g).

[8] *See* Exchange Rule 21.8(f).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6 of the Act.[9] Specifically, the Exchange believes that the proposed rule change is consistent with section 6(b)(4) of the Act,[10] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls.

The Exchange notes that the U.S. options markets are highly competitive, and the marketing fee is intended to provide an incentive for Market Makers to enter into marketing agreements with Members so that they will provide order flow to the Exchange. The marketing fee is charged only in a Market Maker's assigned classes because it is in these classes that the Market Maker has the general obligation to attract order flow to the Exchange.

The Exchange believes that the proposed amendments to its marketing fee program, which is similar to marketing fee programs that have previously been implemented on other options exchanges,[11] will enhance the Exchange's competitive position and will result in increased liquidity on the Exchange, thereby providing more of an opportunity for customers to receive best executions. In addition, the proposed cap and reimbursement process would assist Market Makers in better managing their respective marketing fee pools and incentivize them to allocate those funds to order flow providers accordingly on a monthly basis. The Exchange notes that most options exchange's that administer a marketing fee program do not cap the monthly contributions,[12] thereby allowing their market makers to roll over monies from month to month without making the disbursements provided for by their respective programs. Therefore, the Exchange believes that providing a cap of $250,000 is equitable and reasonable as it would allow the Exchange to monitor the impact of the cap on a Market Maker's allocation of marketing fees without inappropriately limiting a Market Maker's ability to carry over funds from month to month.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or its competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. The Exchange believes that its proposed marketing fee cap, which is similar to marketing fee caps in place on other options exchanges,[13] will enhance the Exchange's competitive position by resulting in increased liquidity on the Exchange, thereby providing more of an opportunity for customers to receive best executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[14] and paragraph (f) of Rule 19b–4 thereunder.[15] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsEDGX–2016–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsEDGX–2016–49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsEDGX–2016–49 and should be submitted on or before October 3, 2016.

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[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] *See* International Securities Exchange, Inc. ("ISE") fee schedule *available at http://www.ise.com/assets/documents/OptionsExchange/legal/fee/ISE_fee_schedule.pdf* (implementing a cap of $100,000); ISE Mercury LLC ("ISE Mercury") fee schedule *available at http://www.ise.com/assets/mercury/documents/OptionsExchange/legal/fee/Mercury_Fee_Schedule.pdf* (implementing a marketing fee cap of $100,000); *and* Chicago Board Options Exchange, Incorporated ("CBOE") fee schedule *available at http://www.cboe.com/framed/pdfframed.aspx?content=/publish/feeschedule/CBOEFeeSchedule.pdf&section=SEC_RESOURCES&title=CBOE%20Fee%20Schedule* (implementing a marketing fee cap of $100,000).

[12] *See e.g.,* Nasdaq PHLX LLC ("PHLX") price list *available at http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing;* Miami International Securities Exchange LLC ("MIAX") *available at http://www.miaxoptions.com/sites/default/files/MIAX_Options_Fee_Schedule_08012016C.pdf.*

[13] *See supra* note 10.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21800 Filed 9–9–16; 8:45 am]

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[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension:

Rule 237, SEC File No. 270–465, OMB Control No. 3235–0528

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension and approval of the collection of information discussed below.

In Canada, as in the United States, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts ("Canadian retirement accounts"). These accounts, which operate in a manner similar to individual retirement accounts in the United States, encourage retirement savings by permitting savings on a tax-deferred basis. Individuals who establish Canadian retirement accounts while living and working in Canada and who later move to the United States ("Canadian-U.S. Participants" or "participants") often continue to hold their retirement assets in their Canadian retirement accounts rather than prematurely withdrawing (or "cashing out") those assets, which would result in immediate taxation in Canada.

Once in the United States, however, these participants historically have been unable to manage their Canadian retirement account investments. Most securities that are "qualified investments" for Canadian retirement accounts are not registered under the U.S. securities laws. Those securities, therefore, generally cannot be publicly offered and sold in the United States without violating the registration requirement of the Securities Act of 1933 ("Securities Act").[1] As a result of this registration requirement, Canadian-U.S. Participants previously were not able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

The Commission issued a rulemaking in 2000 that enabled Canadian-U.S. Participants to manage the assets in their Canadian retirement accounts by providing relief from the U.S. registration requirements for offers of securities of foreign issuers to Canadian-U.S. Participants and sales to Canadian retirement accounts.[2] Rule 237 under the Securities Act[3] permits securities of foreign issuers, including securities of foreign funds, to be offered to Canadian-U.S. Participants and sold to their Canadian retirement accounts without being registered under the Securities Act.

Rule 237 requires written offering documents for securities offered and sold in reliance on the rule to disclose prominently that the securities are not registered with the Commission and are exempt from registration under the U.S. securities laws. The burden under the rule associated with adding this disclosure to written offering documents is minimal and is non-recurring. The foreign issuer, underwriter, or broker-dealer can redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement.

The Commission understands that there are approximately 3,619 Canadian issuers other than funds that may rely on rule 237 to make an initial public offering of their securities to Canadian-U.S. Participants.[4] The staff estimates that in any given year approximately 36 (or 1 percent) of those issuers are likely to rely on rule 237 to make a public offering of their securities to participants, and that each of those 36 issuers, on average, distributes 3 different written offering documents concerning those securities, for a total of 108 offering documents.

The staff therefore estimates that during each year that rule 237 is in effect, approximately 36 respondents[5] would be required to make 108 responses by adding the new disclosure statements to approximately 108 written offering documents. Thus, the staff estimates that the total annual burden associated with the rule 237 disclosure requirement would be approximately 18 hours (108 offering documents × 10 minutes per document). The total annual cost of burden hours is estimated to be $6,840 (18 hours × $380 per hour of attorney time).[6]

In addition, issuers from foreign countries other than Canada could rely on rule 237 to offer securities to Canadian-U.S. Participants and sell securities to their accounts without becoming subject to the registration requirements of the Securities Act. However, the staff believes that the number of issuers from other countries that rely on rule 237, and that therefore are required to comply with the offering document disclosure requirements, is negligible.

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

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[1] 15 U.S.C. 77. In addition, the offering and selling of securities of investment companies ("funds") that are not registered pursuant to the Investment Company Act of 1940 ("Investment Company Act") is generally prohibited by U.S. securities laws. 15 U.S.C. 80a.

[2] *See* Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Accounts, Release Nos. 33–7860, 34–42905, IC–24491 (June 7, 2000) [65 FR 37672 (June 15, 2000)]. This rulemaking also included new rule 7d–2 under the Investment Company Act, permitting foreign funds to offer securities to Canadian-U.S. Participants and sell securities to Canadian retirement accounts without registering as investment companies under the Investment Company Act. 17 CFR 270.7d–2.

[3] 17 CFR 230.237.

[4] This estimate is based on the following calculation: 3,520 equity issuers (as of April 2016) + 99 bond issuers (as of April 2016) = 3,619 total issuers (as of April 2016). *See* World Federation of Exchanges, Monthly Reports, *available at http://www.world-exchanges.org/home/index.php/statistics/monthly-reports* (providing number of equity issuers listed on Canada's Toronto Stock Exchange). After 2009, the World Federation of Exchanges ceased reporting the number of fixed-income issuers on Canada's Toronto Stock Exchange. The number of fixed-income issuers as of April 2016 is based on the ratio of the number of fixed-income issuers listed on Canada's Toronto Stock Exchange in 2009 (111) relative to the number of bonds listed on that exchange in that year (178) multiplied against the number of bonds listed on that exchange as of April 2016 (159): (111/178) × 159 = 99.

[5] This estimate of respondents only includes foreign issuers. The number of respondents would be greater if foreign underwriters or broker-dealers draft stickers or supplements to add the required disclosure to existing offering documents.

[6] The Commission's estimate concerning the wage rate for attorney time is based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association ("SIFMA"). The $380 per hour figure for an attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 6, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21795 Filed 9–9–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17a–7, SEC File No. 270–147, OMB Control No. 3235–0131

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (“PRA”), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the previously approved collection of information provided for in Rule 17a–7 (17 CFR 240.17a–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17a–7 requires a non-resident broker-dealer (generally, a broker-dealer with its principal place of business in a place not subject to the jurisdiction of the United States) registered or applying for registration pursuant to Section 15 of the Exchange Act to maintain—in the United States—complete and current copies of books and records required to be maintained under any rule adopted under the Exchange Act and furnish to the Commission a written notice specifying the address where the copies are located. Alternatively, Rule 17a–7 provides that non-resident broker-dealers may file with the Commission a written undertaking to furnish the requisite books and records to the Commission upon demand within 14 days of the demand.

There are approximately 45 non-resident brokers and dealers. Based on the Commission’s experience, the Commission estimates that the average amount of time necessary to comply with Rule 17a–7 is one hour per year. Accordingly, the total industry-wide reporting burden is approximately 45 hours per year. Assuming an average cost per hour of approximately $291 for a compliance manager, the total internal cost of compliance for the respondents is approximately $13,095 per year.[1]

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted within 30 days of this notice.

Dated: September 6, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21798 Filed 9–9–16; 8:45 am]

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[1] $291 per hour for a compliance manager is from SIFMA’s *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff for an 1800-hour work-year, multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, and adjusted for inflation.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78772; File No. SR–MIAX–2016–31]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Short Term Option Series Program

September 6, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on September 2, 2016, Miami International Securities Exchange LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 404, Series of Option Contracts Open for Trading, Interpretations and Policies .02, to expand the Short Term Option Series Program to allow Wednesday expirations for SPDR S&P 500 ETF Trust (“SPY”) options. Additionally, the Exchange proposes to amend the definition of Short Term Option Series in Rule 100.

The text of the proposed rule change is available on the Exchange’s Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to expand the Short Term Option Series Program outlined in Rule 404, Interpretations and Policies .02, to allow the listing and trading of SPY options with Wednesday expirations. This is a competitive filing based on a filing submitted by the BOX Options Exchange, LLC ("BOX"), which the Commission recently approved.[3]

Currently, under the Short Term Option Series Program the Exchange may open for trading on any Thursday or Friday that is a business day ("Short Term Option Opening Date") series of options on that class that expire at the close of business on each of the next five Fridays that are business days, and are not Fridays in which monthly option series or Quarterly Options Series expire ("Short Term Option Expiration Dates"). The Exchange is now proposing to amend Rule 404, Interpretations and Policies .02, to permit the listing of SPY options expiring on Wednesdays. Specifically, the Exchange is proposing that it may open for trading on any Tuesday or Wednesday that is a business day, series of SPY options that expire on any Wednesday of the month that is a business day, and is not a Wednesday on which Quarterly Options Series expire ("Wednesday SPY Expirations"). The proposed Wednesday SPY Expiration series would be similar to the current Short Term Option Series, with certain exceptions, as explained in greater detail below. The Exchange notes that Wednesday expirations are not a novel proposal. Specifically, the U.S. Securities and Exchange Commission ("Commission") approved a CBOE proposal to list Wednesday expirations for broad-based indexes.[4] Additionally, BOX recently received approval to list Wednesday SPY Expirations.[5]

In regards to Wednesday SPY Expirations, the Exchange is proposing to remove the current restriction preventing MIAX from listing Short Term Option Series that expire in the same week in which monthly option series in the same class expire. Specifically, the Exchange would be allowed to list Wednesday SPY Expirations in the same week in which monthly option series in SPY expire. The current restriction to prohibit the expiration of monthly and Short Term Option Series from expiring on the same trading day is reasonable to avoid investor confusion. This confusion would not apply with Wednesday SPY Expirations and standard monthly options because they would not expire on the same trading day, as standard monthly options do not expire on Wednesdays. Additionally, it would lead to investor confusion if Wednesday SPY Expirations were not listed for one week every month because there was a monthly SPY expiration on the Friday of that week. The existing restriction that a Short Term Option Series may not expire on the same day that a Quarterly Option Series expires would apply to Wednesday SPY Expirations.

Under the proposal, the Exchange may open for trading on any Tuesday or Wednesday that is a business day, series of SPY options that expire at the close of business on each of the next five Wednesdays that are business days and are not Wednesdays on which Quarterly Options Series expire. The Exchange may have no more than a total of five Wednesday SPY Expirations listed. This is similar to the listing procedures for Short Term Option Series that expire on Fridays. If the Exchange is not open for business on the respective Tuesday or Wednesday, the Wednesday SPY Expiration Opening Date will be the first business day immediately prior to that respective Tuesday or Wednesday. Similarly, if the Exchange is not open for business on a Wednesday, the expiration date for a Wednesday SPY Expiration will be the first business day immediately prior to that Wednesday. This is also similar to the procedures for Short Term Option Series that expire on Fridays.

The Exchange is also proposing to clarify that the five expirations limit in the current Short Term Option Series Program Rule would not include any Wednesday SPY Expirations and vice versa.[6] This means, under the proposal, the Exchange would be allowed to list five Short Term Option Series expirations for SPY expiring on Friday under the current rule and five Wednesday SPY Expirations. The interval between strike prices for the proposed Wednesday SPY Expirations would be the same as those for the current Short Term Option Series. Specifically, the Wednesday SPY Expirations would have $0.50 strike intervals.[7]

Currently, for each Short Term Option Expiration Date, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[8] The thirty (30) series restriction does not include series that are opened by other securities exchanges under their respective short term option rules; MIAX may list these additional series that are listed by other exchanges.[9] The thirty (30) series restriction would apply to Wednesday SPY Expiration series as well. In addition, the Exchange would be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list SPY options expiring on Wednesdays.

As is the case with current Short Term Option Series, the Wednesday SPY Expiration series would be P.M.-settled. The Exchange does not believe that any market disruptions would be encountered with the introduction of P.M.-settled Wednesday SPY Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire almost every Friday, which provide market participants a tool to hedge special events and to reduce the premium cost of buying protection. The Exchange seeks to introduce Wednesday SPY Expirations to, among other things, expand hedging tools available to market participants and to continue the reduction of the premium cost of buying protection. The Exchange believes that Wednesday expirations, similar to Friday expirations, would allow market participants to purchase an option based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange is also proposing to amend Rule 100, which sets forth the definition of Short Term Option Series. The definition set forth in Rule 100 is redundant to the terms for Short Term Option Series set forth in Rule 404, Interpretations and Policies .02. As a result, the Exchange believes that amending Rule 100 by including an internal cross reference to Rule 404, Interpretations and Policies .02 and by deleting redundant language would result in a clearer definition and would make the Rulebook more precise and user friendly.

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[3] *See* Securities Exchange Act Release No. 78668 (August 24, 2016), 81 FR 59696 (August 30, 2016) (order approving SR–BOX–2016–28).

[4] *See* Securities Exchange Act Release No. 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (Order approving SR–CBOE–2015–106).

[5] *See supra* note 3.

[6] Specifically, the Exchange proposes to add the following text to Rule 404, Interpretations and Policies .02, in the appropriate paragraph, "Wednesday SPY expirations (described in the paragraph below) are not included as part of this count [ ]" and "Non-Wednesday SPY Expirations (described in the paragraph above) are not included as part of this count."

[7] This is because SPY options have $1 strike price intervals for non-Short Term Option series. *See* Exchange Rule 404, Interpretations and Policies .10. Pursuant to Rule 404, Interpretations and Policies .02(e), the strike price interval for Short Term Option Series may be $0.50 or greater for option classes that trade in $1 strike price intervals and are in the Short Term Option Series Program.

[8] *See* Exchange Rule 404, Interpretations and Policies .02(a).

[9] *See* Exchange Rule 404, Interpretations and Policies .02(a).

The Exchange is taking this opportunity to amend Rule 404, Interpretations and Policies .02 with respect to Exchange closures on Fridays that would otherwise be eligible as Short Term Option Expiration Dates. Specifically, the Exchange is cleaning up outdated language that previously tied listings to Fridays in the following business week, *i.e.,* "if the Exchange is not open for business on the Friday of the following business week. . . ." Since Short Term Option Series may be listed out over five consecutive Fridays, the existing language is unnecessarily restrictive. Also, this proposed change harmonizes the Exchange's rule text with existing BOX rule text, *i.e.,* "if the [Exchange] is not open for business on a Friday . . ."

The Exchange proposes to add the new rule text language regarding Wednesday SPY Expirations at the beginning of Rule 404, Interpretations and Policies .02, before the provisions governing classes, expiration, initial series, additional series, and strike interval. The Exchange believes that placement of Wednesday SPY Expirations at the start of Rule 404, Interpretations and Policies .02, would make it apparent that the rest of Rule 404, Interpretations and Policies .02 applies to Wednesday SPY Expirations. To make this point clear, the Exchange proposes to add the sentence, "References to 'Short Term Option Series' below shall be read to include 'Wednesday SPY Expirations,' except where indicated otherwise[ ]" before the alphabetically listed paragraphs set forth in Rule 404, Interpretations and Policies .02.

The Exchange believes that the introduction of Wednesday SPY Expirations would provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the industry.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[11] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Wednesday SPY Expirations simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. Similarly, the Exchange believes Wednesday SPY Expirations should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to more closely tailor their investment objectives. The Exchange believes that allowing Wednesday SPY Expirations and monthly SPY expirations in the same week would benefit investors and minimize investor confusion by providing Wednesday SPY Expirations in a continuous and uniform manner.

In addition to the substantive proposal to permit Wednesday SPY Expirations, the Exchange is proposing to make a minor change to the text of Rule 404, Interpretations and Policies .02, that would benefit investors and the public by providing clarity and accuracy in the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Wednesday SPY Expirations in the same way it monitors trading in the current Short Term Option Series. Finally, the Exchange also represents that it has the necessary systems capacity to support the new options series.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that having Wednesday expirations is not a novel proposal.[12] The Exchange does not believe the proposal will impose any burden on intramarket competition, as all market participants will be treated in the same manner as they are with respect to existing Short Term Option Series. Additionally, the Exchange does not believe the proposal will impose any burden on intermarket competition, as nothing prevents the other options exchanges from proposing similar rules to those that the Exchange is currently proposing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii)[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved BOX's substantially similar proposal to list and trade Wednesday SPY Expirations.[16] The Exchange has stated that waiver of the operative delay will allow the Exchange to list and trade Wednesday SPY Expirations as soon as possible, and therefore, promote competition among the option exchanges. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal effective upon filing.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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[10] 15 U.S.C. 78f(b).

[11] 16 U.S.C. 78f(b)(5).

[12] *See supra* note 4.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intention to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See supra* note 3.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2016–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2016–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2016–31 and should be submitted on or before October 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21801 Filed 9–9–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension:

Rule 17a–1, SEC File No. 270–244, OMB Control No. 3235–0208

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 17a–1 (17 CFR 240.17a–1) under the Securities Exchange Act of 1934, as amended (the "Act") (15 U.S.C. 78a *et seq.*).

Rule 17a–1 requires that every national securities exchange, national securities association, registered clearing agency, and the Municipal Securities Rulemaking Board keep on file for a period of not less than five years, the first two years in an easily accessible place, at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records made or received by it in the course of its business as such and in the conduct of its self-regulatory activity, and that such documents be available for examination by the Commission.

There are 29 entities required to comply with the rule: 19 national securities exchanges, 1 national securities association, 8 registered clearing agencies, and the Municipal Securities Rulemaking Board. The Commission staff estimates that the average number of hours necessary for compliance with the requirements of Rule 17a–1 is 52 hours per year. In addition, 4 national securities exchanges notice-registered pursuant to Section 6(g) of the Act (15 U.S.C. 78f(g)) are required to preserve records of determinations made under Rule 3a55–1 under the Act (17 CFR 240.3a55–1), which the Commission staff estimates will take 1 hour per exchange, for a total of 4 hours. Accordingly, the Commission staff estimates that the total number of hours necessary to comply with the requirements of Rule 17a–1 is 1,512 hours. The total internal cost of compliance for all respondents is $98,280, based on an average cost per hour of $65.

Compliance with Rule 17a–1 is mandatory. Rule 17a–1 does not assure confidentiality for the records maintained pursuant to the rule. The records required by Rule 17a–1 are available only for examination by the Commission staff, state securities authorities, and the self-regulatory organizations. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522, and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

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[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

Dated: September 6, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–21797 Filed 9–9–16; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2016–0043]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2016–0043].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than November 14, 2016. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Supplemental Security Income (SSI)—Quality Review Case Analysis—0960–0133.* To assess the SSI program and ensure the accuracy of its payments, SSA conducts legally mandated periodic SSI case analysis quality reviews. SSA uses Form SSA–8508 to conduct these reviews, collecting information on operating efficiency; the quality of underlying policies; and the effect of incorrect payments. SSA also uses the data to determine SSI program payment accuracy rate, which is a performance measure for the agency's service delivery goals. Respondents are recipients of SSI payments selected for quality reviews.

Type of Request: Revision of an OMB approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
SSA–8508–BK (paper interview)	225	1	60	225
SSA–8508–BK (electronic)	4,275	1	60	4,275
Totals	4,500			4,500

2. *Social Security Benefits Application—20 CFR 404.310–404.311, 404.315–404.322, 404.330–404.333, 404.601–404.603, and 404.1501–404.1512—0960–0618.* Title II of the Social Security Act provides retirement, survivors, and disability benefits to members of the public who meet the required eligibility criteria and file the appropriate application. This collection comprises the various application methods for each type of benefits. SSA uses the information we gather through the multiple information collection tools in this information collection request to determine applicants' eligibility for specific Social Security benefits, as well as the amount of the benefits. Individuals filing for disability benefits can, and in some instances SSA may require them to, file applications under both Title II, Social Security disability benefits, and Title XVI, SSI payments. We refer to disability applications filed under both titles as "concurrent applications." This collection comprises the various application methods for each type of benefits. These methods include the following modalities: Paper forms (Forms SSA–1, SSA–2, and SSA–16); Modernized Claims System (MCS) screens for in-person interview applications; and Internet-based iClaim and iAppointment applications. SSA uses the information we collect through these modalities to determine: (1) The applicants' eligibility for the above-mentioned Social Security benefits and (2) the amount of the benefits. The respondents are applicants for retirement, survivors, and disability benefits under title II of the Social Security Act.

Type of Request: Revision of an OMB-approved information collection.

FORM SSA–1

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
MCS/Signature Proxy	2,793,597	1	10	465,600
Paper	115,678	1	11	21,208
Medicare-only MCS	880,763	1	7	102,756

FORM SSA-1—Continued

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
Medicare-only Paper	9,549	1	7	1,114
Totals	3,779,587			590,678

FORM SSA-2

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
MCS/Signature Proxy	518,598	1	14	121,006
Paper	54,661	1	15	13,665
Totals	573,259			134,671

FORM SSA-16

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
MCS/Signature Proxy	2,483,952	1	19	786,585
Paper	116,294	1	20	38,765
Totals	2,600,246			825,350

iCLAIM SCREENS

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
iClaim 3rd Party	345,267	1	15	86,317
iClaim Applicant after 3rd Party Completion	345,267	1	5	28,772
First Party iClaim—Domestic Applicant	2,956,208	1	15	739,052
First Party iClaim—Foreign Applicant	11,650	1	3	583
Medicare-only iClaim	723,062	1	10	120,510
Totals	4,381,454			975,234

iAPPOINTMENT SCREENS

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
iAppointment	20,218	1	10	3,370

GRAND TOTAL

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minute)	Estimated annual burden (hours)
Total	11,374,764			2,529,303

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than October 12, 2016. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov*.

Request to Withdraw a Hearing Request; Request to Withdraw an Appeals Council Request for Review; and Administrative Review Process for Adjudicating Initial Disability Claims—20 CFR parts 404, 405, and 416—0960–0710. Claimants have a statutory right under the Act and current regulations to apply for Social Security Disability Insurance (SSDI) benefits or SSI payments. SSA collects information at each step of the administrative process to adjudicate claims fairly and efficiently. SSA collects this information to establish a claimant's right to administrative review and determine the severity of the claimant's alleged impairments. SSA uses the information we collect to determine entitlement or continuing eligibility to SSDI benefits or SSI payments, and to enable appeals of these determinations. In addition, SSA collects information on Forms HA–85 and HA–86 to allow claimants to withdraw a hearing request or an Appeals Council review request. The respondents are applicants for Title II SSDI or Title XVI SSI benefits; their appointed representatives; legal advocates; medical sources; and schools.

Type of Request: Revision of an OMB-approved information collection.

20 CFR Section No.	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
404.961, 416.1461, 405.330, and 405.366	12,220	1	20	4,073
404.950, 416.1450, and 405.332	1,040	1	20	347
404.949 and 416.1449	2,868	1	60	2,868
405.334	20	1	60	20
404.957, 416.1457, and 405.380	21,041	1	10	3,507
405.381	37	1	30	19
405.401	5,310	1	10	885
404.971 and 416.1471 (HA–85; HA–86)	1,606	1	10	268
404.982 and 416.1482	1,687	1	30	844
404.987 & 404.988 and 416.1487 & 416.148 and 405.601	12,425	1	30	6,213
405.372(c)	5,310	1	10	885
405.1(b)(5), 405.372(b)	833	1	30	417
405.505	833	1	30	417
405.1(c)(2)	5,310	1	10	885
405.20	5,310	1	10	885
Totals	75,850			22,533

Dated: September 7, 2016.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2016–21834 Filed 9–9–16; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 552 (Sub-No. 20)]

Railroad Revenue Adequacy—2015 Determination

AGENCY: Surface Transportation Board.

ACTION: Notice of decision.

SUMMARY: On September 8, 2016, the Board served a decision announcing the 2015 revenue adequacy determinations for the Nation's Class I railroads. Four carriers, BNSF Railway Company, Grand Trunk Corporation, Soo Line Corporation, and Union Pacific Railroad Company, were found to be revenue adequate.

DATES: *Effective Date:* This decision is effective on September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245–0333. Assistance for the hearing impaired is available through Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board is required to make an annual determination of railroad revenue adequacy. A railroad is considered revenue adequate under 49 U.S.C. 10704(a) if it achieves a rate of return on net investment (ROI) equal to at least the current cost of capital for the railroad industry for 2015, determined to be 9.61% in *Railroad Cost of Capital—2015,* EP 558 (Sub-No. 19) (STB served August 5, 2016). This revenue adequacy standard was applied to each Class I railroad. Four carriers, BNSF Railway Company, Grand Trunk Corporation, Soo Line Corporation, and Union Pacific Railroad Company, were found to be revenue adequate for 2015.

The decision in this proceeding is posted on the Board's Web site at *www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

Decided: September 6, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Marline Simeon,

Clearance Clerk.

[FR Doc. 2016–21869 Filed 9–9–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant Daimler Trucks North America's (Daimler) application for an exemption renewal for one Daimler driver to drive commercial motor vehicles (CMV) in the United States without possessing a commercial driver's license (CDL) issued by one of the States. Dr. Wolfgang Bernhard is the

head of the Daimler Trucks and Buses Division who will test-drive Daimler vehicles on U.S. roads to better understand product requirements for these vehicles in "real world" environments and verify results. He holds a valid German commercial license but lacks the U.S. residency necessary to obtain a CDL issued by one of the States. FMCSA believes that the process for obtaining a German-issued CDL is comparable to or is effective as the U.S. CDL requirements and ensures that this driver will likely achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: This exemption is effective August 29, 2016, and expires August 28, 2018.

ADDRESSES:

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, please contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Telephone: (614) 942–6477. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, "FMCSA–2012–0032 in the "Keyword" box and click "Search." Next, click the "Open Docket Folder" button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Section 5206(a)(3) of the "Fixing America's Surface Transportation Act," (FAST Act), [Pub. L.114–94, 129 Stat.1312, 1537, Dec.4, 2015] amended 49 U.S.C. 31315(b) by adding a new paragraph (2) which permits exemptions for no longer than 5 years from their dates of inception, instead of the previous 2 years. This statutory provision will be codified in 49 CFR part 381 in a forthcoming rulemaking.

III. Request for Exemption

Daimler requests a renewal of its exemption from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce, for the next 5 years for the chief executive of its Trucks and Buses Division. Dr. Wolfgang Bernhard, holds a valid German commercial license, but is unable to obtain a CDL in any of the U.S. States due to residency requirements. A copy of the request for renewal, dated February 22 and 23, 2016, is in the docket identified at the beginning of this notice.

FMCSA initially granted an exemption to Dr. Bernhard on August 29, 2014 (79 FR 51641). This exemption was effective August 29, 2014, and expires August 29, 2016. Detailed information about the qualifications and experience of Dr. Bernhard was provided by Daimler in its original application, a copy of which is in the docket. Renewal of the exemption will enable Dr. Bernhard to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements and to promote technological advancements in vehicle safety systems and emissions reductions. Dr. Bernhard needs to drive Daimler vehicles on public roads to better understand "real world" environments in the U.S. market. According to Daimler, Dr. Bernhard will typically drive for no more than 6 hours per day for 2 consecutive days, and that 10 percent of the test driving will be on two-lane state highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, for a total of 400 miles during a two-day period on a quarterly basis. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Daimler has explained in prior exemption requests that the German knowledge and skills tests and training program ensure that Daimler's drivers operating under the exemption will achieve a level of safety that is equivalent to, or greater than, the level of safety obtained by complying with the U.S. requirement for a CDL. Furthermore, according to Daimler, Dr. Bernhard is familiar with the operation of CMVs worldwide.

IV. Method To Ensure an Equivalent or Greater Level of Safety

FMCSA has previously determined that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. Since 2012, FMCSA has granted Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410)].

V. Public Comments

On March 28, 2016, FMCSA published notice of this application and requested public comment (81 FR 17242). No comments were submitted.

VI. FMCSA Decision

Based upon the merits of this application, including Dr. Bernhard's extensive driving experience and safety record, and the fact that he has successfully completed the requisite training and testing to obtain a German commercial license, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

VII. Terms and Conditions for the Exemption

FMCSA grants Daimler and Dr. Wolfgang Bernhard an exemption from the CDL requirement in 49 CFR 383.23 to allow Dr. Bernhard to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399); (2) the driver must be in possession of the exemption document and a valid German commercial license; (3) the driver must be employed by and operate the CMV within the scope of his duties for Daimler; (4) at all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled; (5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and (6) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 5 years unless revoked earlier by the FMCSA. The exemption will be revoked if (1) Dr. Bernhard fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: August 31, 2016.

T.F. Scott Darling, III,

Administrator.

[FR Doc. 2016–21836 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption to Daimler Trucks North America (Daimler) for one of its commercial motor vehicle (CMV) drivers. Daimler requested an exemption from the Federal requirement to hold a U.S. commercial driver's license (CDL) for Mr. Henning Oeltjenbruns, a general manager of the Daimler Truck Plant in Cleveland, NC. Mr. Oeltjenbruns wants to test drive Daimler vehicles on U.S. roads to better understand product requirements in "real world" environments, and verify results. Daimler believes the requirements for a German commercial license ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: This exemption is effective September 12, 2016 through September 12, 2018.

ADDRESSES:

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, please contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Telephone: (614) 942–6477. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, "FMCSA–2012–0032" in the "Keyword" box and click "Search." Next, click the "Open Docket Folder" button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain its terms and conditions. The exemption may be renewed (49 CFR 381.300(b)).

Section 5206(a)(3) of the "Fixing America's Surface Transportation Act," (FAST Act) [Pub. L. 114–94, 129 Stat.

1312, 1537, Dec. 4, 2015], amended 49 U.S.C. 31315(b) by adding a new paragraph (2) which permits exemptions for no longer than 5 years from their dates of inception, instead of the previous 2 years. This statutory provision will be codified in 49 CFR part 381 in a forthcoming rulemaking.

III. Request for Exemption

On behalf of Henning Oeltjenbruns, Daimler has applied for a 5-year exemption from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Mr. Oeltjenbruns is unable to obtain a CDL in any of the States due to his lack of residency in the United States. A copy of the application is in Docket No. FMCSA–2012–0032.

The exemption would allow Mr. Oeltjenbruns to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements and to promote technological advancements in vehicle safety systems and emissions reductions. Mr. Oeltjenbruns needs to drive Daimler vehicles on public roads to better understand "real world" environments in the U.S. market. According to Daimler, Mr. Oeltjenbruns will typically drive for no more than 6 hours per day, and 10 percent of the test driving will be on two-lane state highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, during a two-day period on a quarterly basis. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Mr. Oeltjenbruns would be required to comply with all applicable Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399) except the CDL provisions described in this notice.

Mr. Oeltjenbruns holds a valid German commercial license, and as explained by Daimler in its exemption request, the requirements for that license ensure that the same level of safety is met or exceeded as if this driver had a U.S. CDL. Furthermore, according to Daimler, Mr. Oeltjenbruns is familiar with the operation of CMVs worldwide.

FMCSA has previously determined that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. Since 2012, FMCSA has granted Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410)].

Public Comments

On May 4, 2016, FMCSA published notice of this application and requested public comments (81 FR 26865). No comments were submitted.

FMCSA Decision

Based upon the merits of this application, including Mr. Oeltjenbruns' extensive driving experience and safety record, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

Terms and Conditions for the Exemption

FMCSA grants Daimler and Henning Oeltjenbruns an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Oeltjenbruns to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the FMCSRs (49 CFR parts 350–399); (2) the driver must be in possession of this notice or an equivalent signed letter, and a valid German commercial license; (3) the driver must be employed by and operate the CMV within the scope of his duties for Daimler; (4) at all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled; (5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and (6) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Oeltjenbruns fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: August 31, 2016.

T.F. Scott Darling, III,

Administrator.

[FR Doc. 2016–21827 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–[2016–0042]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 58 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on July 28, 2016. The exemptions expire on July 28, 2018.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On June 28, 2016, FMCSA published a notice of receipt of Federal diabetes exemption applications from 58 individuals and requested comments from the public (81 FR 42044. The public comment period closed on July 28, 2016, and one comment was received.

FMCSA has evaluated the eligibility of the 58 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 58 applicants have had ITDM over a range of one to 40 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the June 28, 2016, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received one comments in this proceeding. An anonymous commenter stated that they believe drivers should not have to be placed in the comment period before receiving the exemptions. As discussed in the initial request for comments published on June 28, 2016, all exemptions that the Agency considers granting must be put forth in a 30 day public comment period, as required by law.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 58 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 49 CFR 391.64(b)):

Scott D. Allen (NE)
Timothy K. Beal (NJ)
Casey G. Bergman (MN)
Chad B. Bramblett (NC)
Robert J. Brearley, Jr. (AL)
Gary R. Butts (NY)
Carey P. Cole (PA)
John W. Cyrus (VA)
Paul J. Dematas (NY)
Tara DiPierri (NY)
William G. Edgell (OH)
Robert M. Flory (OH)
Jason L. Garrett (TX)
Faustino P. Garza (TX)
Robert D. Golding (NM)
Bruce E. Gusler (NH)
Seth R. Hamilton (NY)
Travis L. Handy (DE)
Paul D. Hollenbeck (UT)
Larry J. Huisman (NE)
Brian J. Hurley (IL)
Jarmone W. Johnson (MD)
Dan M. Kirk (OR)
Sung Y. Kong (NJ)
Kevin M. Krug (IN)
Brian C. Link (NY)
Timothy J. Loeschen (TX)
Bruce A. Mattison (WA)
Brian K. McGowan (AR)
James K. Medeiros (RI)
Brian C. Moffett, Jr. (MD)
Gregory S. Montierth (CA)
Daniel M. Mulligan (NJ)
John N. Mulready, Jr. (MA)
Jerry L. Niichel (IA)
Donald S. Oakes (PA)
Ardell Parks (IL)
Terry D. Paxton (PA)
Lawrence C. Powers (MI)
Reynier Prieto (FL)

Charles V. Radford, Jr. (NC)
Manuel A. Samayoa (GA)
Malcolm D. Small (TX)
Russell F. Smith (PA)
Trenton W. Socha (TX)
Edward D. Sprague (WI)
Carla J. Stafford (TN)
Jennifer N. Stout (TX)
Virgil W. Sykes (WI)
Luis M. Torres (CT)
Lyle D. Tunink (IA)
Fasitupe Tupuola (CA)
Christa VanHook (KY)
Saverio Verre (NJ)
Raymond R. Webker (OH)
James A. Wiggins (OK)
Reed R. Wilken (IL)
Abraham K. Yohannan (NY)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: August 25, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–21828 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0116]

Denial of Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denial.

SUMMARY: FMCSA announces its decision to deny applications from 11 individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On July 13, 2015, FMCSA published a notice announcing receipt of applications from 21 individuals requesting an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a CMV in interstate commerce and requested comments from the public (80 FR 40127). The public comment period closed on August 12, 2015, and 10 comments were received.

FMCSA has evaluated the eligibility of these applicants and concluded that granting 11 of the 21 exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). A final notice announcing the decision to grant nine of 21 exemptions and providing a response to the 10 comments received was published on September 14, 2015 (80 FR 55170). One of the applicants in this notice withdrew his request for an exemption.

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the Federal epilepsy standard for a renewable two-year period if it finds "such exemption is likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption."

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. The Agency considered the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The January 15, 2013 **Federal Register** notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to make decisions regarding seizure exemptions.

IV. Conclusion

The Agency has determined that these 11 applicants do not satisfy the criteria eligibility or meet the terms and conditions for a Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). Therefore, the applicants listed in this notice have been denied an exemption from the physical qualification standards in 49 CFR 391.41(b)(8).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitutes final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial. The following drivers were listed previously in **Federal Register** Notice FMCSA–2015–0116 published on July 13, 2015:

Leo Arnold Burns—Mr. Burns has a history of a seizure disorder. His last seizure was in 2010. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Rodney Lee Ericson—Mr. Ericson has a history of epilepsy. His last seizure was in 2010. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Kristopher Alan Fraser—Mr. Fraser has a history of epilepsy. His last seizure was in 2007. He takes anti-seizure medication with a change in dosage in October 2015. He does not meet the MEP guidelines at this time.

Todd A. Fuller—Mr. Fuller has a history of a single seizure in 2014. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Howard Pearce Hill—Mr. Hill has a history of a seizure disorder. His last seizure was in 1990. He takes anti-seizure medication with a change in medication 2015. He does not meet the MEP guidelines at this time.

Victor John Martinez—Mr. Martinez has a history of epilepsy. His last seizure was in 2013. He underwent a left craniotomy and lobectomy in 2013. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Sean Michael Monroe—Mr. Monroe has a history of epilepsy. His last seizure was in 2011. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Robert H. Philley—Mr. Philley has a history of a seizure disorder. His last seizure was in 2013. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

David T. Pomianek, Jr.—Mr. Pomianek has a history of epilepsy. His last seizure was in 2011. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Gregory Roy Schaefer—Mr. Schaefer has a history of a single seizure in 2014. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Maciej Skrzyniarz—Mr. Skrzyniarz has a history of a single seizure in 2014. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Issued on: August 26, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–21829 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

PHMSA–2007–0038, ConocoPhillips Alaska, Inc.; PHMSA–2016–0072, Magellan Midstream Partners, L.P.; PHMSA–2016–0073, New Fortress Energy-Tico Development Partners, LLC; Pipeline Safety: Requests for Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal pipeline safety laws, PHMSA is publishing this notice of three special permit requests we received from pipeline operators, seeking relief from compliance with certain requirements in the Federal pipeline safety regulations. This notice seeks public comments on the requests, including comments on any safety or environmental impacts. At the conclusion of the 30-day comment period, PHMSA will evaluate the requests and determine whether to grant or deny the special permits.

DATES: Submit any comments regarding these special permit requests by October 12, 2016.

ADDRESSES: Comments should reference the docket number for the specific special permit request and may be submitted in the following ways:

- *E-Gov Web site: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: Comments are posted without changes or edits to *http://www.Regulations.gov*, including any personal information provided. There is a privacy statement published on *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–628–7479, or email at *Steve.Nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA has received three special permit requests from pipeline operators seeking relief from compliance with certain Federal pipeline safety regulations. The requests include a technical analysis provided by the operator and has been filed at *www.Regulations.gov* under the assigned docket number. We invite interested persons to participate by reviewing these special permit requests at *http://www.Regulations.gov,* and by submitting written comments, data or other views. Please include any comments on potential environmental impacts that may result if these special permits are granted.

Before acting on these special permit requests, PHMSA will evaluate all comments received on or before the comment closing date. Comments will be evaluated after this date if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment we receive in making our decision to grant or deny a request.

PHMSA has received the following special permit requests:

Docket No.	Requester	Regulation(s)	Nature of special permit
PHMSA–2007–0038.	ConocoPhillips Alaska Inc. (CPAI).	49 CFR 192.481 and 195.583	To authorize ConocoPhillips Alaska Inc (CPAI), in its capacity as Operator of the Kuparuk Transportation Company and the Oliktok Pipeline Company, to meet its obligations under the regulations to monitor atmospheric corrosion on above ground pipelines.

Docket No.	Requester	Regulation(s)	Nature of special permit
			The special permit request is for: The 9.2 miles of 18-inch diameter and 27.7 miles of 24-inch diameter Kuparuk Oil Pipeline (Operator Identification (OPID): 10346) including Divert Tank “A“; 27.91 miles of 16-inch diameter Oliktok Gas Pipeline (OPID: 31341); and 34.6 miles of 14-inch diameter Alpine Oil Pipeline (OPID: 31552). CPAI changed operations as follows: Switched from natural gas liquids transport to natural gas transport service and modified one pipeline to allow the special permit segment to be inspected by an in-line inspection (ILI) tool. CPAI requests the modification of the current special permit to continue to inspect areas “susceptible” to atmospheric corrosion for their non-piggable, insulated, regulated pipelines on the North Slope of Alaska. The modification will include additional regulations covering 49 CFR Part 192 for natural gas service. The Oliktok Pipeline (OPID: 31341) changed service from natural gas liquids to natural gas in 2014. The Kaparuk Pipeline (OPID: 10346) segment was modified in 2009 to allow ILI. All of these pipelines are being inspected by ILI tools on either a 2 or 3-year interval.
PHMSA–2016–0072.	Magellan Midstream Partners, L.P. (Magellan).	49 CFR 195.432	To authorize Magellan a special permit for variance from Federal regulations of 49 CFR 195.432, for a transitional staged breakout tank inspection schedule. Magellan claims that the January 5, 2015, Rulemaking, “Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments” (80 FR 168), which removed Section 6.4.3 of API Standard 653, would significantly accelerate the inspection intervals of 553 of its 800 Breakout Tanks. These tanks are located in the States of: Colorado, Connecticut, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming. Additionally the rule would require Magellan to accelerate inspections of approximately 100 tanks by January 5, 2017. Due to this requirement, Magellan expects it would experience significant logistical challenges in securing additional project personnel, qualified contractors, and reputable inspection services to oversee the accelerated tank inspections. Magellan proposes to use the transitional staged Breakout Tank inspection to provide an equivalent or higher level of pipeline integrity while leading to full and sustained compliance with the federal regulations.
PHMSA–2016–0073.	New Fortress Energy TICO Development Partners (TICO), LLC.	49 CFR 193.2155(b)	To authorize TICO a special permit for variance from Federal regulations of 49 CFR 193.2155(b) to operate a liquefied natural gas (LNG) tank over 3⁄5 of a mile south-southeast of the Space Coast Regional Airport in association with the construction of their future liquefaction, storage and transfer facility in Titusville, Florida. TICO proposes to locate the LNG Tank on part of a property measuring approximately 64 acres in a location that is over 3⁄5 of a mile south-southeast from the southern edge of Runway 18⁄36 at TIX (the Project Site). The Project Site and the surrounding area is zoned M–2, which allows for industrial and heavy industrial uses, and occupies an area planned for industrial development situated between TIX and an existing thermal power plant. The Project Site sits adjacent to the Florida East Coast Railway line and a natural gas pipeline located immediately east of the Project Site.

Issued in Washington, DC, on September 7, 2016, under authority delegated in 49 CFR 1.97.

John A. Gale,

Director, Standards and Rulemaking.

[FR Doc. 2016–21865 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Interagency Statement on Complex Structured Finance Transactions

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of an information collection titled, "Interagency Statement on Complex Structured Finance Transactions." The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before October 12, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0229, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0229, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503 or by email to: *oira submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is requesting that OMB extend its approval of the following information collection:

Title: Interagency Statement on Complex Structured Finance Transactions.

OMB Control No.: 1557–0229.

Description: The interagency statement describes the types of internal controls and risk management procedures that the agencies (OCC, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Securities and Exchange Commission) consider particularly effective in helping financial institutions identify and address the reputational, legal, and other risks associated with complex structured finance transactions.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 9.

Estimated Number of Responses: 9.

Estimated Annual Burden: 225 hours.

Frequency of Response: On occasion.

Comments: On June 24, 2016, the OCC issued a 60-day notice soliciting comment on the collection, 81 FR 41375. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 2, 2016.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2016–21732 Filed 9–9–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Survey of Minority Owned Institutions

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning a renewal of an information collection titled, "Survey of Minority Owned Institutions." The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before October 12, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0236, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0236, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503 or by email to: *oira submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC requests that OMB extend its approval of the following collection of information:

Title: Survey of Minority Owned Institutions.

OMB Control No.: 1557–0236.

Type of Review: Regular review.

Description: The OCC is committed to assessing its efforts to provide supervisory support, technical assistance, education, and other outreach to the minority-owned institutions under its supervision in accordance with meeting the goals prescribed under section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.[1] To perform this assessment, it is necessary to obtain feedback from the individual institutions on the effectiveness of OCC's current efforts in these areas and suggestions on how the OCC might enhance or augment its supervision and technical assistance going forward. The OCC uses the information gathered to assess the needs of minority-owned institutions and its efforts to meet those needs. The OCC also uses the information to focus and enhance its supervisory, technical assistance, education and other outreach activities with respect to minority-owned institutions.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 55.

Estimated Number of Responses: 55.

Estimated Annual Burden: 110 hours.

Frequency of Response: On occasion.

Comments: On June 24, 2016, the OCC issued a 60-day notice soliciting comment on the information collection, 81 FR 41374. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 2, 2016.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2016–21731 Filed 9–9–16; 8:45 am]

BILLING CODE 4810–33–P

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[1] 12 U.S.C. 1463 note.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13582

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is removing the name of an entity and individual whose property and interests in property have been blocked pursuant to Executive Order 13582 of August 17, 2011, "Blocking Property of the Government of Syria and Prohibiting Certain Transactions With Respect to Syria," from the List of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: The removal of this entity and individual from the SDN List is effective as of August 30, 2016.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On August 30, 2016, OFAC determined that circumstances no longer warrant the inclusion of the following entity and individual on OFAC's SDN list, and that this entity and individual are no longer subject to the blocking provisions of Section 1(b) of Executive Order 13582:

- DK GROUP SARL (a.k.a. DK GROUP; a.k.a. DK MIDDLE-EAST & AFRICA REGIONAL OFFICE), Peres Lazaristes Center, No 3, 5th Floor, Emir Bachir Street, Beirut Central District, Bachoura Sector, Beirut, Lebanon; Azarieh Building—Block 03, 5th Floor, Azarieh Street—Solidere—Downtown, P.O. Box 11–503, Beirut, Lebanon; Web site *http://www.dk-group.biz;* Registration ID 2004405 (Lebanon) [SYRIA].
- DAGHER, Jad (a.k.a. DAGHER, Jade Adel), Dagher Building, 3rd Floor, Bikfaya, Metn, Lebanon; DOB 1976; nationality Lebanon; General Manager at DK Middle-East & Africa Regional Office (individual) [SYRIA] (Linked To: DK GROUP SARL).

Dated: August 30, 2016.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–21794 Filed 9–9–16; 8:45 am]

BILLING CODE 4810–AL–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
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14 CFR Part 93
14 CFR Part 71
Pearson Field Airport Special Flight Rules Area and Revocation of Class D Airspace; Vancouver, WA; Final Rules

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No.: FAA–2015–3980; Amdt. No. 93–100]

RIN 2120–AK74

Pearson Field Airport Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is establishing a Special Flight Rules Area in the vicinity of Pearson Field Airport, Vancouver, Washington. Pearson Field Airport is located approximately three nautical miles northwest of Portland International Airport, Portland, Oregon. The close proximity of the airport traffic patterns and approach courses create converging flight paths between traffic on approach to Portland International Airport and traffic at Pearson Field Airport, increasing the risk for near mid-air collision, mid-air collision and wake turbulence events. The intended effect of this action is to mitigate the identified risk by establishing operating requirements applicable to all aircraft when operating within a designated area at Pearson Field Airport, which would increase overall system efficiency and safety.

DATES: Effective November 10, 2016, except for amendatory instruction #1, which is effective September 12, 2016.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see "How to Obtain Additional Information" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Patrick Moorman, Airspace and Rules Team, AJV–115, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8783; email *Patrick.moorman@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This rule establishes a special flight rules area (SFRA) around Pearson Field Airport (Pearson Field) in which pilots will have to follow mandatory procedures. These procedures are necessary to assist in the separation of air traffic, and to ensure pilots are aware of potential traffic conflicts between aircraft operating at Pearson Field and Portland International Airport. The notice of proposed rulemaking (NPRM) was published on October 6, 2015. 80 FR 60310. The FAA received 16 comments to the NPRM. All but one of the commenters supported creation of the special flight rules area for Pearson Field. However, those commenters believed that findings from the Safety Risk Management Panel for Pearson Field should be expressly included in the regulation. Based on the comments received, the FAA has made one minor change to proposed 14 CFR 93.163 regarding operations over the runway or extended runway centerline of Pearson Field. This final rule will ensure safety of flight for aircraft operating at Pearson Field Airport and the adjacent Portland International Airport.

II. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code (49 U.S.C.). Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules. This rulemaking also is promulgated under the authority described in 49 U.S.C. 40103, which vests the Administrator with broad authority to prescribe regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace, and 49 U.S.C. 44701(a)(5), which requires the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

III. Background and History

Pearson Field is located on the north bank of the Columbia River in Vancouver, Washington, approximately three nautical miles west of Portland International Airport, Portland, Oregon. Pearson Field is part of the Fort Vancouver National Historic Site, and is listed on the National Register of Historic Places. It is one of the oldest airports in the United States, and the longest continually operating airport west of the Mississippi. Pearson Field does not have an air traffic control tower.

Portland International Airport is located 10 miles northeast of downtown Portland and has over 300,000 annual operations, primarily scheduled air carriers conducting operations under Title 14 of the Code of Federal Regulations (14 CFR) part 121. It serves northern Oregon and southwest Washington with service to 120 cities worldwide. Due to the continued growth of Portland International Airport and the close proximity of Pearson Field, the FAA has identified safety issues.

The airspace area surrounding Pearson Field is excluded from the Portland International Airport Class C airspace area and is commonly referred to as the Pearson cutout. The runway 08 threshold at Pearson Field is directly below the instrument landing system (ILS) final approach course to Portland International Airport's runway 10L. Additionally, runway 10L was expanded to accommodate heavy aircraft and Boeing 757s. These operations increase the risk of wake turbulence events between Portland International Airport arrivals to runway 10L or departures from runway 28L/28R and aircraft operating at Pearson Field.

The Airport/Facility Directory (A/FD) lists the traffic pattern altitude at Pearson Field as 1029 feet mean sea level (MSL) or 1000 feet above ground level (AGL). The A/FD also instructs aircraft operating over the runway centerline or extended runway centerline at Pearson Field to "maintain at or below 700 feet MSL due to traffic and wake turbulence from overflying aircraft to/from Portland International Airport Runway 10L/28R." This is because aircraft established on the Portland International Airport ILS final approach course to runway 10L pass directly over Pearson's runway 08 threshold at 1091 feet MSL (1062 feet AGL). The close proximity of the traffic pattern and the approach course create converging flight paths between aircraft on approach to Portland International Airport's runway 10L/10R and aircraft operating at Pearson Field.

These converging flight paths and the lack of vertical separation create potential safety concerns for aircraft operating at both Pearson Field and Portland International Airport, including risk of mid-air collision and wake turbulence events. Currently, there is no requirement for pilots to establish communications with air traffic control to receive traffic advisories. In particular, when Portland International Airport is operating on an east traffic flow and weather permits aircraft to operate under visual flight rules (VFR) at Pearson Field the occurrence of traffic collision avoidance system (TCAS) resolution advisories (RA) increases.

To mitigate the identified risk, FAA's Portland Approach Control took measures to increase safety, which included training controllers regarding flight paths into and out of Pearson Field, and refresher training regarding RAs, safety alerts and wake turbulence. Portland Air Traffic Control Tower established the "Pearson Advisory" position to provide traffic advisories to aircraft operating at Pearson Field. Additionally, recommended pilot communications and procedures were placed in the A/FD, which are voluntary but not required. While these mitigations have increased safety and pilot awareness, 20 TCAS RAs were reported and logged by air traffic control during calendar year 2014, and 18 TCAS RAs were reported and logged during calendar year 2015, reflecting an ongoing safety concern.

IV. The Final Rule

a. The Notice of Proposed Rulemaking

To address the safety concerns between traffic operating at Pearson Field and Portland International Airport, the FAA published a notice of proposed rulemaking to establish a SFRA at Pearson Field by adding new subpart N to part 93, where special air traffic rules are codified. 80 FR 60310 (October 6, 2015). The proposed rule provided a description of the airspace area (proposed § 93.162), communication requirements in the SFRA for both inbound and outbound flights (proposed § 93.163(a)), and procedural requirements necessary to reduce the risks associated with the operation (proposed § 93.163(c)).

That NPRM proposed to make the following voluntary practices in the A/FD and air traffic procedures applicable in the Pearson Field SFRA and mandatory for all pilots unless otherwise authorized by Air Traffic Control (ATC):

- Pilots must establish two-way radio communications with Pearson Advisory on the common traffic advisory frequency for the purpose of receiving air traffic advisories prior to entering the SFRA or taxiing onto the runway for departure. Additionally, pilots must continuously monitor the frequency at all times while operating within the designated airspace.
- When operating over the extended centerline of Pearson Field Runway 8/26, pilots must maintain an altitude at or below 700 feet MSL.
- Pilots must obtain the Pearson Field weather prior to establishing two-way communications with Pearson Advisory.
- Pilots must remain outside Portland Class C Airspace.
- Pilots must make a right-hand traffic pattern when operating to/from Pearson Field Runway 26.
- Pilots may operate in the area without establishing two-way radio communication, in the event of radio failure, provided that weather conditions at Pearson Field are at or above basic VFR weather minimums.

B. Comments Received

The FAA received sixteen comments to the NPRM: Nine from individuals (one individual submitted two comments, and another individual submitted three comments); and four comments from organizations: The Port of Portland, Washington Airport Management Association, the Pearson Field Airport Manager, and the Aircraft Owners and Pilots Association. Four of the nine individuals who commented to the notice of proposed rulemaking had previously participated in Safety Risk Management Panels related to Pearson Field.

One individual commenter supported the NPRM without change. Seven individuals and the four organizations expressed general support for the rulemaking action. All of the comments supporting the NPRM discussed concerns regarding the proposed rule and recommended changes to more closely align the rule with current safety risk management procedures. One individual commenter opposed the NPRM. A discussion of the comments received and FAA's responses follows.

The 2012 safety risk management panel and the proposed rule: The Port of Portland, Washington Airport Management Association, Pearson Field Airport Manager, Aircraft Owners and Pilots Association, and six individual commenters—four of whom had participated in previous Safety Risk Management Panels—supported replacing the Class D airspace at Pearson Field with Class E airspace accompanied by a special flight rule in part 93, provided that the final rule and charting included all procedural elements described in Safety Risk Management Document (SRMD) SRMD–PDX–VUO–SI–2012–2991, Appendices J, K, and L and Letter to Airmen LTA–PDX–01. Commenters asserted that these procedures, developed by the FAA and users as part of the 2012 Safety Risk Management Panel, have been shown to be safe and efficient for commercial and recreational pilots at both Pearson Field and Portland International Airport.

Commenters also argued that the proposed regulatory text has lost the intent of the Safety Risk Management Panel by removing certain provisions. Commenters believed that the proposed rule should include the specific language recommended within the Safety Risk Management Document. Commenters asserted that changes in the proposed regulatory text negate the risk management strategies the Panel approved in the SRMD and introduce new risk into the system in violation of the FAA's own process. Commenters also believed the intent of the rule is to codify and replace LTA–PDX–01. The Pearson Field Airport manager, AOPA, and two individuals provided specific recommendations to better align the SFRA with the current SRMD.

The purpose of this rulemaking is not to replace or codify the implemented mitigations discussed in SRMD–PDX–VUO–SI–2012–2991, including the procedural recommendations and provisions in Appendices J, K, and L. The FAA points out that initiation of a rule to establish a special flight rules area was not discussed or recommended in SRMD–PDX–VUO–SI–2012–2991.

Two commenters specifically requested that SRMD–PDX–VUO–SI–2012–2991 be referenced in the final rule, both in the preamble and the regulatory text. This is not appropriate. The safety mitigations as discussed in the SRMD were not regulatory and were implemented using appropriate means. Specifically, the content of Appendix J was placed as a special notice in the A/FD, the content of Appendix K was published in a Letter to Airman, and the content of Appendix L is reflected on the Seattle Sectional Aeronautical Chart. This rulemaking did not propose to amend, eliminate, or address any of the implemented mitigations resulting from SRMD–PDX–VUO–SI–2012–2991.

This rulemaking codifies the communications requirement, altitude limitation over the runway and runway centerline, and certain air traffic control (ATC) instructions that were listed in SRMD–PDX–VUO–SI–2012–2991 as existing controls already in place at the time of the panel's analysis but they were only recommendations. With this rulemaking, the FAA formalizes aspects of those existing controls.

Best practices for compliance, including procedural recommendations, and supplementary information are not appropriate to codify in the regulation but are appropriate for other FAA publications, such as the special notice placed in the A/FD. The FAA does not find that this rule is contradictory to, or would prevent a pilot from complying with, the procedural recommendations contained in other FAA publications for operations at Pearson Field Airport.

The safety mitigations currently in place are only strengthened by this rule. Pilots must comply with the special flight rules and should continue to comply with all recommended procedures when operating to and from Pearson Field. This rulemaking does not replace or amend that guidance.

Communication requirement: An individual believed that the proposal reduced (by omission) the inbound distance from Pearson Field that pilots are required to establish contact with Pearson Advisory from 5 miles to approximately 1.5 miles. The commenter asserted that this will result in increased traffic congestion over a populated area between 1,000 and 1,100 MSL in a small area northwest of Pearson Field and south of Vancouver Lake (thus increasing traffic conflict hazards and increasing noise over neighborhoods).

The commenters incorrectly understood the NPRM to state that a pilot should make his or her initial radio call when entering the traffic pattern. Rather, the proposal was to establish a mandatory requirement for a pilot to establish two-way radio communications with Pearson Advisory on the common traffic advisory frequency prior to entering the SFRA or taxiing onto the runway for departure. Additionally, pilots would have to continuously monitor the frequency at all times while operating within the designated airspace.

At Pearson Field, local procedures listed in the A/FD include a recommendation that arriving pilots contact Pearson Advisory at least 5 miles from the field to announce their position and intentions. Pilots should comply with all recommended procedures when operating to and from the airport; however, this rule makes it mandatory for a pilot to establish two-way radio communications prior to entering the SFRA. Codifying the 5 mile communication requirement would provide less flexibility to adjust local procedures as necessary.

Altitude limitation over the runway centerline: One individual pointed out that the rule language only limits the operating altitude over the runway centerline and not the over runway itself. The commenter believed this would allow an aircraft, over the runway, to climb to a potentially unsafe altitude. The FAA agrees with the commenter that this could create a potentially unsafe situation.

If a departing aircraft, or an aircraft completing a go-around, were to start a crosswind prior to reaching the runway end, it would be possible for that pilot to climb to an altitude greater than 700 feet above mean sea level without having operated over the extended runway centerline. The FAA has revised proposed § 93.163(c)(1) to read: "When operating over the runway or extended runway centerline of Pearson Field Runway 8/26 maintain an altitude at or below 700 feet above mean sea level."

Circling aircraft: One commenter believed that the new SFRA will force incoming pilots to circle their aircraft at low altitudes for longer periods of time which could lead to noise complaints, wasted fuel, and contribute toward making Pearson Field less desirable. The commenter also believed that the SFRA could lead to a decrease in use of Pearson Field, as the rules make it harder for maintenance shops and flight schools to use Pearson for Touch-and-Go flights which bring money to Pearson Field. The commenter believed that this financial issue should be weighed with the option of putting a control tower in place.

In making certain voluntary practices mandatory for all pilots, unless otherwise authorized by ATC, this rule creates no more of a deterrent to pilots than currently exists under the voluntary procedures. Furthermore, establishment of the SFRA, along with charting of the area, will create greater awareness of the unique operating environment at Pearson Field and reduce the risk of a pilot operating to or from the airport without knowledge of the local procedures.

Existing procedures: The commenter who opposed the proposed rule believed that the A/FD entry for Pearson already has mandatory procedures concerning conflict avoidance, and a SFRA would be burdensome upon general aviation pilots in the area, and would act as a deterrent for transient pilots, who may choose another airport due to lack of SFRA knowledge. The commenter thus believed that the SFRA would harm the economic impact of this airport. The FAA disagrees. The intended effect of this action is to mitigate the identified risk by establishing requirements necessary when operating within an established area at Pearson Field, and to increase overall system efficiency and safety; the expected outcome will have only a minimal impact.

FAA guidance such as the procedures contained in the A/FD are not mandatory and do not constitute a regulation. This guidance is voluntary and is issued to outline methods of best practice for compliance to the regulations.

V. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows. The FAA received no comments on the initial regulatory evaluation minimal cost determination. The FAA makes the same determination herein and provides the logic below.

Due to the continued growth of Portland International Airport and the close proximity of Pearson Field, safety issues have been identified. To address the safety concerns between traffic operating at Pearson Field and Portland International Airport, the FAA is establishing a SFRA at Pearson Field in part 93. The final rule provides a description of the area, communication requirements for both inbound and outbound flights, and procedural requirements necessary to reduce the risks associated with the operation.

Currently, pilots voluntarily comply with procedures in the airport/facility directory, to establish two-way radio communications with Pearson Advisory, and to maintain at or below 700 feet above mean sea level when operating over the extended centerline of Pearson Field Runway 8/26. Additionally, air traffic control instructs pilots on Pearson advisory to obtain the Pearson Field weather, and to remain outside Portland Class C Airspace. As a result of being required to remain outside of Portland's Class C Airspace, pilots must make a non-standard right traffic pattern if landing on runway 26 at Pearson Field. A non-standard right traffic pattern is different, required for safety, but imposes only minimal cost. The other requirements of establishing two-way communication, obtaining the weather report, maintaining an altitude at or below 700 feet when operating over the runway, and remaining outside of Portland Class C Airspace are all minimal cost. The safety concern is real. Twenty TCAS resolution advisories (RAs) were reported and logged by air traffic control during calendar year 2014, and 18 TCAS RAs were reported and logged during calendar year 2015, reflecting an ongoing safety concern. By making the voluntary compliance mandatory, the FAA expects a decrease in the occurrence of, and will avoid an increase in, RAs. For the reasons discussed above, the cost of the rule will be minimal.

The FAA has, therefore, determined that this rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this final rule does not have a significant economic impact on a substantial number of small entities for the following reasons. For the initial regulatory flexibility analysis the FAA explained while the rule would affect a substantial number of small entities, the costs would be minimal. We received no comments on that analysis. With this rule, the procedures and voluntary practices already in place will become mandatory. The intended effect of this action is to mitigate the identified risk by establishing requirements necessary when operating within an established area at Pearson Field, and to increase overall system efficiency and safety. The expected outcome will have only a minimal economic impact on small entities affected by this rulemaking action.

Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that the rule would protect safety and is not considered an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no corresponding standards with these regulations.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6f and involves no extraordinary circumstances.

VI. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, will not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it will not be a "significant energy action" under the executive order and will not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action will have no effect on international regulatory cooperation.

VII. Additional Information

A. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

- Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
- Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
- Accessing the Government Publishing Office's Web page at *http://www.fdsys.gov.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9677. Commenters must identify the docket, amendment, or notice number of this rulemaking.

All documents the FAA considered in developing this rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced above.

B. Comments Submitted to the Docket

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 93—SPECIAL AIR TRAFFIC RULES

■ 1. The authority citation for part 93 is added to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44715, 44719, 46301.

■ 2. Add subpart N to part 93 to read as follows:

Subpart N—Pearson Field (Vancouver, WA) Airport Traffic Rule

Sec.
93.161 Applicability.
93.162 Description of area.
93.163 Aircraft operations.

Subpart N—Pearson Field (Vancouver, WA) Airport Traffic Rule

§ 93.161 Applicability.

This subpart prescribes special air traffic rules for aircraft conducting VFR operations in the vicinity of the Pearson Field Airport in Vancouver, Washington.

§ 93.162 Description of area.

The Pearson Field Airport Special Flight Rules Area is designated as that airspace extending upward from the surface to but not including 1,100 feet MSL in an area bounded by a line beginning at the point where the 019° bearing from Pearson Field intersects the 5-mile arc from Portland International Airport extending southeast to a point 1½ miles east of Pearson Field on the extended centerline of Runway 8/26, thence south to the north shore of the Columbia River, thence west via the north shore of the Columbia River to the 5-mile arc from Portland International Airport, thence clockwise via the 5-mile arc to point of beginning.

§ 93.163 Aircraft operations.

(a) Unless otherwise authorized by ATC, no person may operate an aircraft within the airspace described in § 93.162, or taxi onto the runway at Pearson Field, unless–

(1) That person establishes two-way radio communications with Pearson Advisory on the common traffic advisory frequency for the purpose of receiving air traffic advisories and continues to monitor the frequency at all times while operating within the specified airspace.

(2) That person has obtained the Pearson Field weather prior to establishing two-way communications with Pearson Advisory.

(b) Notwithstanding the provisions of paragraph (a) of this section, if two-way radio communications failure occurs in flight, a person may operate an aircraft within the airspace described in § 93.162, and land, if weather conditions are at or above basic VFR weather minimums. If two-way radio communications failure occurs while in flight under IFR, the pilot must comply with § 91.185.

(c) Unless otherwise authorized by ATC, persons operating an aircraft within the airspace described in § 93.162 must—

(1) When operating over the runway or extended runway centerline of Pearson Field Runway 8/26 maintain an altitude at or below 700 feet above mean sea level.

(2) Remain outside Portland Class C Airspace.

(3) Make a right traffic pattern when operating to/from Pearson Field Runway 26.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f), 40103, and 44701(a)(5) on August 26, 2016.

Michael P. Huerta,
Administrator.

[FR Doc. 2016–21377 Filed 9–9–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–4133; Airspace Docket No. 15–ANM–27]

Revocation of Class D Airspace; Vancouver, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes the Class D airspace at Pearson Field, Vancouver, WA. FAA Joint Order 7400.2K states that non-towered airports requiring a surface area will be designated Class E. Class E surface area airspace was established on December 10, 2015. The FAA is taking this action due to the lack of an operating air traffic control tower at Pearson Field Airport, Vancouver, WA.

DATES: Effective 0901 UTC, November 10, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*. FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4517.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove Class D airspace at Pearson Field Airport, Vancouver, WA.

History

On January 26, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to remove Class D airspace at Vancouver, WA (81 FR 4220) Docket No. FAA–2015–4133. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Ten comments were received; nine from individuals and one from the Aircraft Owners and Pilots Association.

All expressed concern with the revocation of the Class D airspace prior to establishment of the Special Flight Rules Area (SFRA), Docket No. FAA–2015–3980. The FAA concurs with their expressed concerns and is making the Special Flight Rules Area effective concurrently with the removal of the Class D airspace.

All commenters were concerned with the SFRA being published without containing specific language requested during a Safety Risk Management Panel in 2012 and comments received on the Notice of Proposed Rulemaking for the SFRA Docket. The FAA addresses those comments in the Final Rule for that action, published elsewhere in this issue of the **Federal Register**.

Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 removes Class D airspace at Vancouver, WA. FAA Joint Order 7400.2K states that non-towered airports requiring a surface area, the airspace will be designated Class E. There is no operating control tower at Pearson Field Airport, Vancouver, WA, which removes the necessity for the Class D airspace area.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANM OR D Vancouver, WA [Removed]

Issued in Seattle, Washington, on August 26, 2016.

Tracey Johnson,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2016–21373 Filed 9–9–16; 8:45 am]

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